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Approved For Release 2003/09/03 : CIA-RDP81-00261R000600030051-1

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DD/571-1062

25 March 1971

MEMORANDUM FOR: Deputy Director for Support

SUBJECT : Administrative Adoption of Statutory Benefits

REFERENCE : Memo dtd 29 Dec 70 to D/Pers and SSA/DDS
fr DDS, subj: Travel Benefits for
Civil Service Retirement System
Participants

1. Pursuant to referent memorandum, this office, in collaboration with the Director of Personnel and the Deputy General Counsel, has developed the attached memorandum for your signature which recommends the extension of the same death and retiree travel benefits for participants in the Civil Service Retirement System as are now provided for participants in the Central Intelligence Agency Retirement and Disability System. We believe this new memorandum provides a completely justifiable rationale for the proposed action. We recognize this is a rather lengthy document but feel it desirable to have a comprehensive statement of the reasons for approval for the record. With the number of retirements scheduled between now and the end of this fiscal year we urge early consideration and approval.

2. From the earlier studies made by the Director of Finance on the added cost of the proposed benefits, we established that the average is \$1,500.00 per employee and that only about 25 percent of those retiring under CIARDS had then opted to move to a new retirement point. Considering the deferment of move within the regulatory six months and extensions of actual date of retirement move beyond the regulatory six months, the 25 percent is undoubtedly low but the average cost per move was arrived at on a voucher-by-voucher review. From 1 July 1970 through 31 March 1971, a total of 186 CSRS participants will have retired and between 1 April and 30 June 1971 we expect roughly 140 more such retirements. Funds for these retirements do not have to be centrally budgeted; the individual offices/divisions/staffs having the retirees would be expected to fund the cost for their retirement travel and we believe this would pose no unusual problems.

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3. While the proposal in the attached memorandum seeks only a limited additional benefit for participants in the CSRS, it is interesting to note that the Department of State is proceeding rapidly to afford all of its career officer CSRS participants the full benefits of the Foreign Service Retirement System. Management Reform Bulletin # 8 dated 16 February 1971 subject "Toward a Unified Personnel System--The Foreign Affairs Specialist Corps" states that the Department of State "will seek conversion to the new Foreign Affairs Specialist Corps, on a voluntary basis, of eligible career Civil Service Officers, Foreign Service Reserve Officers, Foreign Service Staff Officers, and a few Foreign Service Officers". Those General Schedule graded employees who convert to Foreign Service Officer or Foreign Affairs Specialist will be encouraged but not required to serve abroad if they are now age 50 or over. Exceptions from overseas service for other officers will be made on the basis of staffing needs for their specialty or to accommodate medical or family problems. It is also interesting to note that hereafter, the Department of State will make no new officer appointments in the General Schedule category, i.e., all new officer appointments will be covered under the Foreign Service Retirement System.

[Redacted Signature]

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Special Support Assistant/DDS

Att

CONCUR:

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[Redacted Signature]

Harry B. Fisher
Director of Personnel

25 March '71
Date

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[Redacted Signature]

John S. Warner
Deputy General Counsel

25 March '71
Date

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2215 71-1063

MEMORANDUM FOR: Executive Director-Comptroller

SUBJECT : Administrative Adoption of Statutory Benefits

REFERENCE : Memo dtd 23 Jun 70 to DDS fr General Counsel,
same subj

1. Paragraph 7 of this memorandum contains a recommendation for your approval.

2. In referent memorandum the General Counsel has stated there would be no legal objection to the Agency extending to participants under the Civil Service Retirement System (CSRS) the same retiree and death travel benefits as are now provided for participants under the Central Intelligence Agency Retirement and Disability System (CIARDS).

3. There was a discussion of this subject in a Deputies meeting on 15 July 1970. In considering the proposal to extend such benefits to all participants in the CSRS, it was decided to return the proposal to the Deputy Director for Support for further study on whether there should have been some demonstration of mobility during Agency service, either by PCS or TDY. Since then we have restudied the problem, including a review of the events which led to the Agency Career Staff concept. The deliberations of the former CIA Career Council were examined against the question of whether from the early 1950's on the Agency ever made any significant departures from requiring the basic obligation by all employees to serve anywhere and at any time and for any kind of duty as determined by the needs of the Agency. The discussions and debates considered whether: the Career Staff would be an "Elite Corps", encompassing only a portion of the employees; we would have what would equate to an "Officer Corps" and an "Enlisted Corps"; married females whose husbands were not Agency employees should be in the Career Staff. After all was said and done, the pattern then, as now, is to treat all employees alike, the element of mobility being presumed in all employees who assume the obligation. The fact that many were ready and eager to move to a new

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location but were never able to for reasons beyond their control would again penalize them if demonstrated mobility were to be a condition precedent to granting additional employment benefits. We therefore can find no valid reason for suggesting a half-way measure which by its very terms would be an equivocation with the basic point involved, that is, whether to grant equal treatment to all employees whenever that is possible and desirable.

4. On 3 May 1968, the Director of Central Intelligence decreed that it would continue to be Agency policy that employees under the CSRS will be required to retire at age 60, or as soon thereafter as they are eligible for optional retirement under the law. In addition, all participants in the CIARDS must retire at age 60. As early as 1959 the retirement policy of the Agency was that employees would be expected to retire at age 60 with 30 years of service or at age 62 with at least 5 years of service under the then existing optional retirement provisions of the CSRS. In 1968 exceptions were made for a few employees who either would not have 30 years service at age 60 or who had been promised they might remain to age 62 on the basis of earlier commitments by the Agency. Exceptions were also made for a group of 57 printers who transferred to the Agency from the Government Printing Office with assurance they would lose no benefits by such transfer, including the right to remain employed until the CSRS statutory age of 70. Paragraph 12 of the rationale for the general retire-at-age-60 policy (attached to the memorandum approved by the Director on 3 May 1968) is pertinent to this memorandum.

"12. In summary, the age 60 retirement policy is a key element of the Agency's efforts to attain excellence in its staffing. Without the policy the entire personnel program of the Agency would be impaired. The most vigorous and productive individuals, finding themselves stymied, will leave the service or will never be persuaded to enter in the first place. By shortening the career span of all employees, service in intelligence will continue to be highly attractive to outstanding young men and women. In the end, our national intelligence objectives will be best served."

5. In addition to the early retirement consideration, it is believed our employees are significantly different from employees of the Federal government at large. There are many exclusions and exemptions from normal Federal personnel practices, procedures and policies applicable to employees of the Agency. Congress has excepted the Agency and its employees from many of the laws governing the rights, benefits and control of government employees, including the Classification Act, Veterans'

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Preference Act and civil service and judicial procedures for appeal of personnel actions. Agency employees as a group serve under unique circumstances, and recognize that while they are Federal employees, the special strictures and requirements of their employment cause them to look to the Agency and not to the Congress, courts or another part of the Executive Branch, such as the Civil Service Commission, for establishment or adjudication of their rights and benefits. Their social associations and personal travel are subject to Agency approval; their ability to remain employed after marriage to an alien is subject to Agency approval; they cannot acquire Civil Service status; and have no intra-agency "bumping rights" during a reduction in force. In some instances their inability to fully describe job duties limits their ability to compete for employment opportunities with private institutions.

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6. We believe that there is ample evidence to show that the conditions of employment for all Agency employees in the categories of staff employee, staff agent, career agent, and contract employees, who converted to such status from staff status without a break in service, are such as to set them apart from the overwhelming majority of Federal employees. Within the Agency family there should be the fewest possible criteria of differentiation in the interest of high morale and uniform administration for all. We have an opportunity to remove one differentiation by extending to participants in the CSRS the same retiree and death travel benefits as are now provided to participants in the CIARDS. Having deliberately established a basic policy requiring retirement at age 60 under CSRS under the basic premise that such action was deemed necessary for the proper administration of all employees of the Agency it would appear logical to extend that policy to include these benefits in order to make it as equitable as is possible. Providing CSRS participants death travel benefits and travel and movement of household effects to a retirement point at a new location is just as necessary as it is for CIARDS participants. I believe that we should provide

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those benefits only to those employees in the CSRS or CIARDS systems who in fact retire at age 60 or as soon thereafter as they are eligible for optional retirement, unless the employee's retirement is extended by the Agency but in no event will the benefits be available after age 62.

7. In line with the above, and pursuant to the authority delegated to you by the Director of Central Intelligence on 5 October 1967, it is recommended that effective with the date of your approval you determine it to be necessary for the proper administration of all employees of the Agency to extend to participants in the CSRS the same death and retirement travel benefits now approved for CIARDS participants, provided the employee:

- a. Is a staff employee, a staff agent, a career agent, or a contract employee converted from staff status without a break in service;
- b. Retires voluntarily or involuntarily on or before his 60th birthday;
- c. If not eligible for retirement at age 60, retires as soon after his 60th birthday as he becomes eligible for optional retirement; or
- d. Retires at his 62nd birthday when his extension beyond the date of his eligibility for optional retirement was approved by the Agency.

John W. Coffey
Deputy Director
for Support

The recommendation contained
in paragraph 7 is approved.

Executive Director-Comptroller

Date

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OGC 70-1033

23 June 1970

MEMORANDUM FOR: Deputy Director for Support

SUBJECT: Administrative Adoption of Statutory
Benefits

1. We understand that as a result of several cases which have recently arisen you are interested in our views as to the legality of extending certain benefits to a portion of the Agency employees who do not now have them.

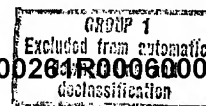
2. As early as 1956 the Agency had adopted by administrative action statutory benefits available elsewhere in Government. There have been at least seven other similar adoptions since that time. In two situations, however, application of benefits was limited to participants in the Central Intelligence Agency Retirement and Disability System (CIARDS):

a. By memorandum of 30 April 1968 the Executive Director-Comptroller approved adoption of the Foreign Service travel and transportation authority for retirees (retiree travel benefits).

b. By memorandum of 21 May 1968 the Executive Director-Comptroller approved adoption of the Foreign Service travel and transportation authority in case of death of an employee (death travel benefits).

Prior to these two actions, all Agency personnel in the CIARDS or the Civil Service Retirement System (CSRS) who were stationed PCS abroad enjoyed substantially similar but not identical benefits.

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These actions gave the retiree and death travel benefits to CIARDS participants stationed PCS in the United States but did not extend the benefits to CSRS participants.

3. Available documents which have discussed the merits of extending retiree and death travel benefits to CSRS participants placed great weight on the fact that the CIARDS participants had met measurable standards which distinguished them from normal CSRS participants. It appears to us that this may not be a valid distinction, inasmuch as these benefits had previously been granted to both CIARDS and CSRS participants stationed PCS abroad; therefore, there is an apparent inequity in connection with employees who are stationed PCS in the United States. This is emphasized by the Agency policy that all employees are equally subject to assignment anywhere as determined by the Agency. The inequity may be demonstrated by a specific case:

25X1A An Office of Logistics employee died while assigned [redacted] The family wished to return to the Washington area and asked the Agency to return them and their household effects at Agency expense. It is our understanding that the Deputy Director for Support approved the family's request, apparently in recognition of the equities in the situation. Thereafter, the Travel Policy Committee studied the problem but nevertheless recommended that neither the death travel benefits nor the retiree travel benefits be extended beyond CIARDS participants.

4. By memorandum to the Director of Central Intelligence, dated 23 August 1967, the Office of Legislative Counsel and the Office of General Counsel recommended that the Director, . . . approve the principle that the Agency may adopt the administrative authorities (except salary) of the Foreign Service Act, as amended, or as it may hereafter be amended, or of any other laws when it is determined by the Executive Director-Comptroller to be necessary for the proper administration of all employees of the Agency.

The Director approved this recommendation.

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5. The Executive Director-Comptroller provided further guidance to the Deputy Director for Support concerning the review of existing Agency authorities by memorandum of 10 October 1967. Part of the guidance provided was as follows:

The principle involved is to make sure that the travel expenses, allowances and other fringe benefits provided to Agency employees are as favorable as those provided in existing laws or in laws hereafter enacted for other government employees in similar circumstances.

6. It would appear that action under these authorities to extend death and retiree travel benefits to CSRS participants would not differ from other actions already taken. Therefore, this office would have no legal objection to such an extension if it is deemed necessary for the proper administration of all employees of the Agency.



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LAWRENCE R. HOUSTON
General Counsel

cc: Director of Finance
Director of Personnel

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM:

Deputy Director for Support

EXTENSION

NO.

Hqs

DATE

TO: (Officer designation, room number, and building)

DATE

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1.

Ex. Dir. - Compt.

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DDS

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28 August 1970

NOTE FOR: Mr. Richard J. Stakem
Deputy Assistant Commissioner, IRS

This is my memorandum of law, revised as you suggested in our meeting on 21 July to show why there is a de facto employer-employee relationship between the Agency and its employees. This argument is in paragraphs 3 to 8. As I mentioned earlier, I am a little leery of winning on this contention since Pension Trust Branch might then reason that the plan is not supplemental to the Civil Service and CIA retirement systems and place unacceptable requirements on contribution limits, withdrawals, etc.

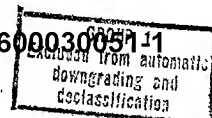
The remainder of my memorandum is devoted to the thesis that a plan established by the Director is established by the United States and supplemental to the statutory plans.

I will be away until 14 September. After that, I'd like to talk to you again and follow up with a meeting with [redacted] if [redacted] 25X1A that seems appropriate.

I am sending a copy of this memorandum to [redacted] 25X1A

[redacted] 25X1A

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28 August 1970

MEMORANDUM OF LAW

SUBJECT: Authority of the Director of Central Intelligence to Establish a Qualified Pension Trust for Agency Employees as a Supplement to the Civil Service and Central Intelligence Agency Retirement Systems

1. The District Director of Internal Revenue has requested technical advice from the National Office, IRS, on the following questions concerning the Government Employees Voluntary Investment Plan, a pension plan and trust to supplement the retirement benefits of employees of the Central Intelligence Agency who are participants in the Civil Service Retirement System or the Central Intelligence Agency Retirement and Disability System.

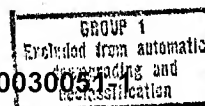
(1) Does the Director of the Central Intelligence Agency have the authority to establish a pension plan for employees of the Agency?

(2) Who is the employer of the CIA employees-- the Agency or the Government?

(3) May this plan be considered as supplemental to the Civil Service Retirement System and the Central Intelligence Agency Retirement and Disability System, so that the three plans may be viewed as a single unit for qualification purposes?

(4) Due to the make-up of employees, may the District Director waive information with respect to the coverage under this plan?

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2. I would dispose of question (4) by stating that the Agency will provide the Service with evidence of the plan's compliance with coverage requirements although security limitations imposed by statute may cause us to submit the information in classified form or in a manner other than normally expected by the Service.

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Question (2) - Who is the employer of the CIA employees--the Agency or the Government?

3. We understand that the Income Tax Division of the Service takes the position that the United States is the employer of CIA employees and that, therefore, the plan must be established by the United States to meet the requirement of Internal Revenue Code § 401(a) and the regulations thereunder that a qualified plan be established by an employer for the exclusive benefit of his employees or their beneficiaries. We would contend that employment by the United States and by an agency thereof are not mutually exclusive and that, therefore, the Central Intelligence Agency can also be considered the employer. Rev. Rul. 58-599, 1958-2 C.B. 45, in a case involving eligibility for the sick pay exclusion of a disability retired Army officer re-employed in another Government agency, states that the relationship of employer and employee is between the United States and the re-employed individual. While this Rule is reasonable in the context of the case, it need not be controlling and can be distinguished in a case involving different facts and another section of the Code. This is especially so where otherwise it would be more difficult to carry out the clear intent of Congress that the Director of Central Intelligence have extraordinary powers in the employment and management of personnel of his Agency. Rev. Rul. 58-599 cites section 31.3401(d)-1(d) of the Employment Tax Regulations in defining the employer-employee relationship. That regulation also supports the proposition that for some purposes an employer-employee relationship may exist between an agency of the Government and employees of the United States employed in that agency.

"The term 'employer' embraces not only individuals and organizations engaged in trade or business, but organizations exempt from income tax, such as religious and charitable organizations, educational institutions, clubs, social organizations and societies, as well as the governments of the United States, the States, Territories, Puerto Rico, and the District of Columbia, including their agencies, instrumentalities, and political subdivisions." (emphasis added)

4. This is not to argue that employees of the Central Intelligence Agency are not employees of the United States in the sense of being federal employees, but it is to contend that an employer-employee relationship exists between them and the Agency. To concede this point in the case of Agency employees does not establish a precedent for all Government employees for all purposes. For example, a distinction can be made for purposes of section 105(d) of the Internal Revenue Code, as in the case of Rev. Rul. 58-599. Similarly, it would be more difficult to argue that a department or agency whose employees occupy positions subject to Civil Service rules and the acts controlling compensation and benefits of Government employees in general should be considered the employer for purposes of section 401(a) of the Code. On the other hand, a good case for the existence of a dual employer-employee relationship can be made for an organization like TVA, a Government corporation which has been given a considerable degree of independence in its employment and management of personnel. In the case of the Central Intelligence Agency, the Congress has excepted the Agency and its employees from many of the laws governing the rights, benefits and control of Government employees, including the Classification Act, Veterans' Preference Act and civil service and judicial procedures for appeal of personnel actions. The Director has extraordinary powers in these areas which can be said to create a de facto employer-employee relationship. The fact that for some purposes in law the relationship is with the United States should not rule out the existence of the relationship with the Agency for other purposes.

5. The practical result of the unusual status of Agency employees and the extraordinary powers of the Director is inequitable if the Agency cannot be considered the employer for purposes of establishing benefits commonly offered by employers, although the Director may exercise other employer prerogatives not normal in

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Government agencies and without regard to laws designed to protect or benefit Government employees. Agency employees recognize that they are federal employees, but the special strictures and requirements of their employment cause them to look to the Agency and not to the Congress, courts or another part of the Executive Branch, such as the Civil Service Commission, for establishment or adjudication of their rights and benefits. Their marriages, social associations, and travel are subject to Agency approval; they cannot acquire Civil Service status; have no intra-agency "bumping rights" during a reduction in force; and must retire earlier than other Government employees. Their inability to reveal job duties and the effect of sensational adverse publicity about the Agency disqualifies them from many job opportunities with private institutions. For the same reasons, they are often uninsurable or their insurance contains exclusions related to their official duties or places of assignment. Because of the insurability problem, the Agency has found it necessary to sponsor an internally administered program which permits employees to replace at least some private coverage lost or unavailable because of their employment and which resolves security problems through the underwriters' agreement to pay claims without knowing the place or cause of death or even the identity of the insured.

6. Agency employees have no outside appeal or recourse in the event of separation under the Director's authority in section 102(c) of the National Security Act. Kochan v. Dulles, Civ. No. 2728-58 D.C.D.C. (20 May 1959); Torpats v. McCone, 300 F. 2d 914 (1962), cert. denied, 371 U.S. 886; Rhodes v. United States, 156 Ct. Cl. 31 (1962), cert. denied, 371 U.S. 821. They cannot have their day in court in pursuing claims against the Agency which would require presentation of evidence concerning their duties, associates or activities. Totten v. U.S., 92 U.S. 105 (1876); De Arnaud v. U.S., 29 Ct. Cl. 555, 151 U.S. 483 (1894); Allen v. U.S., 27 Ct. Cl. 89 (1892); Tucker v. U.S., 118 F. Supp. 371 (1954). In all of these situations, Agency employees must look to the Director and abide by his rules and decisions, but they also know that the Agency "looks out for its own" and does what it can to offset or compensate for disadvantages they accept with Agency employment.

7. Some of the most serious disadvantages in Agency employment are the risks of "selection-out" and early retirement. To maintain efficiency in a demanding field, the Agency "selects out", i. e., fires, its least effective employees even though their

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performance might not subject them to separation in another Government agency. Others may be required to retire at age 50. Under the terms of the CIA Retirement Act, involuntary retirement is a final and conclusive determination of the Director and not subject to review by any court. Whether fired or forcibly retired, they are at an age where other employment is necessary yet hard to find because they have worked in a unique field or cannot reveal the details of their experience, or both. Finally, no matter how proficient their services have been, they will be required to retire at age 60, when many will be facing their greatest financial obligations. The primary reason for establishment of the Voluntary Investment Plan was to attempt to mitigate the hardship in early termination and retirement by providing an opportunity for employees to supplement their financial reserves and retirement incomes. This is the kind of offsetting benefit which enables employees to accept other limitations inherent in their jobs. We think it is also the kind of managerial action the Congress expected in granting extraordinary powers to the Director. To rule that he cannot act, either because the Agency is not the employer or because he is not acting for the United States, may be both an impractical and inequitable decision. We think the Congress intended him to be able to take such action and that the law permits him to do so.

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Question (1) - Does the Director of the Central Intelligence Agency have the authority to establish a pension plan for employees of the Agency?

9. If a pension plan for Government employees must be established by the United States, who is authorized to act for the United States in establishing the plan? Clearly, Congress can do so by legislation, such as that establishing the Civil Service Retirement System. It does not follow, however, that only Congress may establish a plan. Absent a valid congressional prohibition, it would seem that the head of an executive department or independent agency has implicit authority to do so. It has been long established that the head of a Government agency need not show express authority for everything he does in administering his agency. As early as 1833, the Supreme Court said in United States v. MacDaniel, 7 Pet. 1, 13-14, 8 L. Ed. 587:

"A practical knowledge of the action of any one of the great departments of the government, must convince every person, that the head of a department, in the distribution of its duties and responsibilities, is often compelled to exercise his discretion. He is limited in the exercise of his powers by the law; but it does not follow, that he must show statutory provision for everything he does."

Also see 28 Op. Att'y Gen. 124; In re Neagle, 39 Fed. 833, 860 (1889) and United States v. Ahtanum Irrigation District, 236 F. 2d 321, 336 (1956).

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10. It follows that if an act of an agency head is not expressly prohibited and is one which will contribute to the efficient operation of his agency, its validity depends only upon the authority to expend appropriated funds to carry it out. Section 3678, Revised Statutes, 31 U.S.C. § 628 provides:

"Except as otherwise provided by law, sums appropriated for the various branches of expenditure in the public service shall be applied solely to the objects for which they are respectively made, and for no others."

This provision of law would prevent the expenditure of appropriated funds to establish and maintain a retirement system unless other statutory authority existed. For example, the authority in section 3 of the Tennessee Valley Authority Act to appoint employees and provide a system for efficiency has been held to authorize the establishment by that agency of its retirement system. Tennessee Valley Authority v. Kinzer, 142 F. 2d 833, 837 (1944).

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12. The Comptroller General does not conduct a regular review of Agency expenditures, but from time to time is consulted and on rare occasion has issued decisions concerning the authority of the Director to expend funds appropriated to the Agency. The most recent decision of the Comptroller General pertinent to the question under consideration is 44 Comp. Gen. 89 (1964), on the authority of the Director to grant retroactive pay increases. Since the Agency is not subject to the Classification Act but has elected to use the schedules thereunder in compensating most of its employees, the Director has provided by regulation that statutory adjustments of salaries in the Classification Act will be given effect whenever the law is amended and will have the same effective date as salary adjustments for Government employees whose salaries are set by the Classification Act. Sometimes the result of this regulation is to grant retroactive pay increases to Agency employees by administration action. The Comptroller General held that this is a valid exercise of the Director's discretionary authority, although normally an administrative retroactive authorization for expenditures could be provided only by statute.

13. There is another illustration of the Director's authority to expend appropriated funds for pension plans which is quite pertinent here. Frequently individuals are retained by the Agency under contracts or appointments which do not qualify them to participate in the Civil Service or CIA Retirement Systems. In some cases they also fail to qualify for Social Security coverage. It may happen that their service is extended for a period of time or in a way not originally contemplated, making it equitable at the time their services are terminated to provide them with retirement benefits. In those cases, the Director expends appropriated funds to provide such benefits, including the purchase of annuities tailored to the needs of each case. This has been Agency practice for many years and presumably will continue to be. The congressional subcommittees responsible for this agency are aware of many of these cases and have interposed no objections.

14. A further example of the Director's extraordinary authority is in the establishment and management of what the Agency has come to call "proprietarys". These are wholly owned organizations,

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usually corporations established and run by the Agency to carry on Agency activities of various kinds. For practical purposes, they are much like Government corporations, but unlike regular Government corporations, they are not created by an act of Congress but by the Director of Central Intelligence. Some of them have qualified pension plans for their employees. The Congress is also aware of the existence of these corporations and not only does not object, but clearly has approved of them by continuing to appropriate funds for the Agency with no restriction on their use for this purpose.

15. For obvious reasons, it is necessary for the Agency to avoid litigation, and consequently there are few appellate decisions to rely upon as precedent in interpreting the statutes granting the Director his authority. Those few cases that do exist do not rule upon the expenditure of funds appropriated to the Agency. Aside from 44 Comp. Gen. 89 on the authority of the Director to grant retroactive pay increases by administrative action, most of the interpretations of the statutes governing the Agency are in classified decisions of the CIA Office of General Counsel. The Director has relied upon his General Counsel's decisions from the inception of the Agency, and the authority of these decisions is buttressed by the implicit approval of the Congress of his administrative actions and expenditures made on the basis of them. In Montague v. United States, 79 Ct. Cl. 624, 633 (1934), it was said:

"The rule is well established that the construction placed upon a statute by the Executive Department of the Government charged with its administration is entitled to great weight and ought not to be overruled except for cogent reasons, and unless it is clear that such construction is erroneous. In United States v. Moore, 95 U.S. 760, it was said:

'The construction given to a statute by those charged with the duty of executing it is always entitled to the most respectful consideration and ought not to be overruled without cogent reasons. Edwards v. Darby, 12 Wheat. 210; United States v. State Bank of North Carolina, 6 Pet. 29; United States v. MacDaniel, 7 id. 1. The officers concerned are

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usually able men and masters of the subject. Not infrequently they are the draftsmen of the laws they are afterwards called upon to interpret.'

"In United States v. Johnston, 124 U.S. 236, the rule is stated as follows:

'In view of the foregoing facts the case comes fairly within the rule often announced by this court, that the contemporaneous construction of a statute by those charged with its execution, especially when it has long prevailed, is entitled to great weight, and should not be disregarded or overturned except for cogent reasons, and unless it be clear that such construction is erroneous.'"

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17. Although cost to the Government here is almost an intangible item in that it involves only the use of personnel already concerned with the administration of Agency personnel policies and employee benefits, there is admittedly some expenditure of funds even if this expense is difficult to segregate. However, the precedent for such expenditures is well established in this Agency and we suspect in some Government agencies subject to ordinary budgetary controls. From the early days of the Agency until the enactment of the Federal Employees Government Life Insurance Act of 1954 and the Federal Employees Health Benefits Act of 1959, the Agency provided voluntary group life and health insurance plans. The cost of establishing and maintaining these plans was paid by the Agency, while the insurance premiums were paid by the employees who elected to participate. The existence of these programs was known to our congressional committees, and they had no objection to them.

18. There are other Government retirement systems for employees of the United States created by administrative action without specific legislative authority. The outstanding examples are the retirement systems of the Army and Air Force Exchange Service and the Tennessee Valley Authority. Revenue Ruling 70-71: I.R.B. 1970-7, 6, concerns the Army and Air Force Exchange

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Service retirement system. The Ruling points out that the Exchange Service operates under the authority of Department of Defense regulations and is an instrumentality of the United States. Control of the Exchange Service is vested jointly in the Secretaries of the Army and Air Force, who have issued joint regulations for its administration. The retirement system was established by such joint regulations. Accordingly, the Revenue Ruling states that a pension system established by the Exchange Service is established by the United States. The obvious distinction that can be made between the Army and Air Force Exchange Service and the Central Intelligence Agency is that the former is a nonappropriated fund activity. However, as we have seen above, this distinction is not pertinent here since the Director of Central Intelligence has authority to expend appropriated funds without a specific appropriations authorization other than that in the CIA Act. In any case, the plan established by the Director involves no employer contributions and only an indirect expenditure like other expenditures for the support of employee benefits and services.

19. The Tennessee Valley Authority pension plan was created by the head of that agency not by an act of Congress. At the time the plan was established, employees of Government corporations were not covered by the Civil Service Retirement System. While the coverage of the Civil Service Retirement System was subsequently broadened by Congress to include virtually all employees of executive agencies of the Government, members of the TVA retirement system were not covered because of the statutory exclusion of employees subject to another retirement system for Government employees. There is congressional confirmation of the status of TVA employees as employees of the United States in the fact that Congress has continued to appropriate funds which enable TVA to make its employer contributions to the system. It is also clear from the various chapters of 5 U.S.C. relating to Government agencies and Government employee benefits that the Tennessee Valley Authority like the Central Intelligence Agency is an executive agency of the United States, and its employees are employees of the United States. 5 U.S.C. § 105, 305(a), 2101-2105, 5102, 6301, 8331.

20. The distinction which can be made between TVA and CIA is that TVA has a corporate entity. Again, this distinction is not controlling for our purposes. Because of TVA's industrial and

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revenue producing activities, a Government corporation was desirable to permit it to sue and be sued, to contract, and to expend revenues without the normal appropriation and expenditure restrictions placed upon Government agencies. However, even for purposes of litigation, its corporate status is by-passed in cases of torts of its employees. For this purpose too, a Government corporation is a federal agency and its employees are federal employees. 28 U.S.C. §2671. Handley v. Tecon Corp., 172 F. Supp. 565 (1959); Wickham v. Inland Waterways Corp., 78 F. Supp. 284 (1948). In spite of its corporate status, Federal District and Appeals Courts have ruled in at least four cases involving employee rights and benefits or obligations that TVA employees are employees of the United States. Posey v. TVA, 93 F. 2d 726 (1937); TVA v. Kinzer, 142 F. 2d 833, 836 (1944); Hill v. Schaeffer, 221 F. 2d 914, 915 (1955); TVA v. Local Union 110, F. Supp. 997, 1000 (1962). Kinzer is of particular interest in that it deals at some length with the TVA and Civil Service Retirement Systems.

Question (3) - May this plan be considered as supplemental to the Civil Service Retirement System and the Central Intelligence Agency Retirement System, so that the three plans may be viewed as a single unit for qualification purposes?

21. If the plan established by the Director is considered to have been created by the United States, all three plans have been established by the same employer, meeting the requirement of Internal Revenue Regulations § 1.401-3(f) for the designation of several trusts or plans as constituting one plan for qualification under Code § 401(a)(3). The unusual situation here, of course, is that two of the plans were created by Congress and the third one by administrative action. If the Director has authority to establish a retirement plan for certain employees of the United States and if Congress interposes no objection, there would seem to be no reason that the three plans may not be viewed as a single unit for qualification purposes. The staffs of the congressional committees responsible for this Agency have been advised orally of the Director's intention to establish this plan. They indicated no objection and did not ask for details, which will be provided to the committees at an appropriate time.

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22. From the point of view of compliance with the Internal Revenue Code, the remaining question then is whether or not there is discrimination in that this plan is limited to employees of one agency. Section 401(a)(3) of the Code permits an employer to designate several pension, stock bonus, profit-sharing, and annuity plans as constituting parts of a plan which he intends to qualify under such section. If all of the plans so designated cover a sufficient portion of all employees, there is no requirement that a definite share be included in any one plan. Regulations § 1.401-3 permits an employer to set up a classification of employees limited to those who have been employed in certain designated departments. Rev. Rul. 65-178, pt. 4(c), C.B. 1965-2, 94, 112. Although our plan is limited to a certain group of Government employees, it seems to us a reasonable classification. For reasons related to the peculiar nature and places of service of many of our employees, their decreasing efficiency and fitness for continued service at a relatively early age, and the need to assign younger men to many of the jobs, we have recently established a policy requiring employees to retire at age 60. This is also the mandatory retirement age for members of the CIA Retirement and Disability System, and in addition employees are permitted and encouraged to retire as early as age 50 and may be required by the Director to do so. Because of the financial hardship evident in the cases of many employees required to retire early, the Agency has sought a means to provide supplemental retirement benefits. This plan established by the Director is thought to be at least a partial answer to the problem. For this reason, we think that Agency employees represent a reasonable classification permitting limitation of this special coverage to them.

23. The only discrimination prohibited by the Code and Regulations is one which favors stockholders, officers, supervisors, or highly compensated employees. There is no question of such discrimination here. The plan applies to the vast majority of employees with the principal limitation being that they be participants in the Civil Service or CIA retirement systems. As a further assurance against discrimination in favor of highly compensated employees, the minimum contribution is set low enough so as not to be burdensome even to lower grade employees. If the plan were ruled to be separate and distinct from the Civil Service and CIA systems and if the Internal Revenue Service held to its position that such a separate plan must

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have a fixed compulsory contribution, the CIA plan, in losing its voluntary and flexible contribution feature, would become either burdensome for lower paid employees or unattractive to many other employees. As employees were promoted and their salaries increased, they would not be able to make the contributions within their financial means which would provide an acceptable level of supplemental retirement benefits. The present position of the Service on compulsory contributions in separate plans would also destroy the limited loan and withdrawal features of this plan which make it more attractive to lower paid employees, who are already contributing a substantial amount to their basic retirement plans and who realize they may have unexpected need for the supplemental contributions they make to this voluntary plan.

24. For the reasons stated in the immediately preceding paragraphs, we believe the plan established by the Director should be qualified as a retirement plan of the United States and considered a part of the Civil Service and CIA plans. In the event that the Internal Revenue Service feels the plan can be qualified only as a separate and distinct one, we suggest a review of the position of the Service that such employee only plans must have only compulsory contributions at the same rate for all employees, no part of which may be withdrawn except upon separation or retirement. We believe the history and context of the Internal Revenue Code and Regulations indicate an intention that such compulsory contributions be those of the employer. A more reasonable alternative, short of permitting only voluntary contributions, would be to permit voluntary contributions within the 10% rule to supplement a compulsory employee contribution. The plan established here is a voluntary one, and it seems questionable whether a plan can be truly voluntary and have only compulsory employee contributions.

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Assistant General Counsel

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MANAGEMENT REFORM BULLETIN



No. 8
February 16, 1971

TOWARD A UNIFIED PERSONNEL SYSTEM The Foreign Affairs Specialist Corps

The Foreign Affairs Specialist (FAS) Corps, a new category of career Reserve officers, has been established. The Foreign Affairs Specialist Corps will parallel and complement the Foreign Service Officer Corps. Its establishment grows out of the conclusions of the Task Forces and earlier management study groups that a unified Foreign Service personnel system would give the Department the advantages of greater management flexibility and more efficiency in the use and development of specialists. Foreign Affairs Specialists will be appointed as Foreign Service Reserve officers with unlimited tenure (FSRU) under the authority of Public Law 90-494.

As the Task Forces recommended, we will seek conversion to the new Foreign Affairs Specialist Corps, on a voluntary basis, of eligible career Civil Service officers, Foreign Service Reserve officers, Foreign Service Staff officers, and a few interested Foreign Service officers.

With the exception of noncareer positions or those exempted by statute, all officer positions in the Department and abroad have been designated as either FSO or FSRU (FAS). Eligible officers may apply for conversion to FAS or FSO according to the designation of their position and other criteria. The Board of Examiners for the Foreign Service, which has over-all responsibility, has designated panels of Deputy Examiners to examine and select candidates for appointment as FAS or FSO. The Board as a whole will hear appeals on the decisions of the panels. New appointments of officers to the Department will hereafter be made only under the Foreign Service personnel system.

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Incentives

To begin moving promptly toward a unified personnel system, we are offering incentives for career officers who convert to FAS or FSO. Career officers not now subject to service abroad, and who are age 50 or over at the time of FAS appointment, will be encouraged but will not be required to serve abroad before retirement. Exceptions for other officers will be made on the basis of staffing needs for their specialty or to accommodate medical or family problems.

Career officers converting to FSO will be exempted from selection-out for performance ranking for two full performance rating periods. Career officers, who convert to FAS from a category not now subject to selection-out, will be exempted from selection-out for performance ranking for a period equal to the maximum time-in-class applicable to their FAS appointment class and specialty, or for 10 years, whichever is less. Such exemptions will cease upon the officer's first promotion as a Foreign Affairs Specialist. Most officers now under the Civil Service Retirement System will become eligible for earlier retirement at a slightly higher annuity under the Foreign Service Retirement System.

FAS Career Opportunities

FAS officers will serve primarily within their field or specialty. They will receive career counseling and opportunities for training and development. Where there is a need for their services as an FSO, they may be considered for lateral entry. As a general policy, FAS officers will be expected to serve some time abroad, although many will spend more time in the United States than overseas. They will compete for promotion with other officers in the same or related specialties. FAS officers will be covered by the Foreign Service Retirement System and will be subject to the selection-out provisions of the Foreign Service Act of 1946, as amended. They will be subject to the published time-in-class criteria established for their class and specialty. The criteria applicable to FAS officers for determining selection-out based on standard of performance, which will be published, may be different from those applicable to FSO's.

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Conversion Counseling

The FAS conversion program will begin on or about February 16, 1971, and will be completed by December 31, 1973. After reading this bulletin, those employees who want counseling may obtain it by contacting their executive or administrative offices. Additional information is available through (1) the appropriate Counseling and Assignments office in PER/CA or (2) the Civil Service Staffing Operations office in PER/CA.

Action Program Implementation

This bulletin provides initial implementation for Action Program items Nos. 65 through 86. Required changes to the Foreign Affairs Manual will be issued.

Attachments:

1. Staffing Designations of Officer Positions (pp. 24-30).
2. Mandatory Retirement Schedule (pp. 31 and 32).
3. Comparison of CS/FS Retirement Systems (pp. 33-36).
4. Class and Salary Conversion Policy and Guidelines (pp. 37-42).
5. Questions and Answers Relating to the FAS Corps (pp. 43-52).

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TOWARD A UNIFIED PERSONNEL SYSTEM

Foreign Affairs Specialist Corps

I. NEED FOR A UNIFIED PERSONNEL SYSTEM

A. Background

A number of study groups composed of distinguished citizens have recommended a partial or complete consolidation of the personnel of the Department of State under a single Foreign Service personnel system. The purposes of all such recommendations, beginning with the Hoover Commission in 1949, were (a) to provide greater flexibility in administration and utilization of manpower resources in support of organizational missions, (b) to simplify administration, and (c) to reduce or eliminate frictions, inequities, and morale problems related to the operation of dual personnel systems.

The Wriston Program in 1954 was the only major program of this kind that was implemented in the Department. It succeeded in consolidating a large percentage of the officer positions and their incumbents into an expanded Foreign Service Officer Corps.

In 1968, following the failure of the Hays bill, separate career service legislation was enacted authorizing a Foreign Service system for USIA comparable to that of the Department of State. The USIA legislation, Public Law 90-494, authorized a new category of Foreign Service Reserve officer with unlimited tenure (FSRU). This permitted the establishment of a corps of career specialists with tenure, perquisites, and conditions of service comparable to those of Foreign Service officers. Public Law 90-494 also provided the State Department with the legislative basis to use this new FSRU category and to include all or part of its non-FSO officer personnel in a new specialist career corps.

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B. Task Force Recommendations

The recent Task Forces recommended that all career officers of the Department be eventually under a unified Foreign Service personnel system. To achieve this goal, the Department is establishing a Foreign Affairs Specialist Corps to parallel the Foreign Service Officer Corps. Officers appointed to this corps will have FSRU status and will be called Foreign Affairs Specialists. A special FAS conversion program, together with an FSO lateral entry program, will be conducted beginning on or about February 16, 1971. All conversions will be on a strictly voluntary basis. After this transition is completed over a period of years, all career officers will be in two career categories, Foreign Service officers (FSO) and Foreign Affairs Specialists (FAS).

The Task Forces believe that this utilization of specialists in the Foreign Service will provide greater efficiency and effectiveness and will inspire a stronger, more unified esprit de corps.

II. FOREIGN AFFAIRS SPECIALIST CORPS

A. Concept

This plan for establishing the Foreign Affairs Specialist Corps is based on a broad use of the FSRU authorities. The Foreign Affairs Specialist Corps can accommodate officers who will serve most of their time in the United States, as well as those who will serve on a worldwide basis under rotational assignment to the United States. The ratio of positions abroad to positions in the United States varies widely among the many functional specialties. Therefore, the ratio of service abroad to service in the United States must vary accordingly in staffing such functions. Experience abroad is highly desirable in the performance of supporting functions in the United States and broadens an officer's knowledge and usefulness to the Department. Most officers who become Foreign Affairs Specialists will be expected to serve some time abroad, but generally on a more limited basis than Foreign Service officers. It is in the mutual interests of the Department and its officer personnel to seek the objective of eventually staffing all career officer positions through the Foreign Service System by utilizing the FSRU authorities on a broad basis.

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Under this concept, the Foreign Service Staff officer category and the Civil Service officer category will be phased out eventually through voluntary appointment of those officers as Foreign Affairs Specialists or as Foreign Service officers, and through normal attrition. The Foreign Affairs Specialist Corps offers these officers an alternative career officer category with class and salary structure and perquisites of service comparable to those for Foreign Service officers.

Foreign Service officers will continue to staff positions in the United States and abroad in the political, economic/commercial, consular, and administrative functional fields where a high degree of specialization or continuity is not required.

Effective accomplishment in these functions, however, is predicated upon the support of a large number of officers possessing a wide variety of professional and technical skills requiring specialized education, training, and/or experience. Included are officers whose primary skills are in highly specialized subfunctions of the broad FSO functional fields, such as geography, fisheries, communications, finance, and security; officers whose primary skills are in distinct professional or technical occupations, such as the physical sciences, medicine, and engineering; and other specialists whose functions are predominantly or exclusively U.S.-oriented, such as legal, data-processing, language services, records management, and publications and reproduction.

B. Legal Authority

Public Law 90-494, approved August 20, 1968, providing for the appointment and use of Foreign Service Reserve officers with unlimited tenure, has the effect of amending or replacing the earlier Reserve officer authorities of the Foreign Service Act with regard to the Department of State and USIA only. The Foreign Service Act authorities are still available to the other foreign affairs agencies.

1. The appointment of a Foreign Service Reserve officer after August 20, 1968, is limited to not more than 5 years, except that an employee assigned from an agency other than the Department of State (or USIA) as a Reserve officer to meet specialized requirements may be extended for up to 5 additional years.

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2. Between the end of the third and fifth years of service a Reserve officer appointed after August 20, 1968, shall be appointed as a Foreign Service officer, Foreign Service information officer (USIA), Foreign Service Staff officer, or Foreign Service Reserve officer with unlimited tenure, or shall be terminated as a Foreign Service Reserve officer.
3. A Reserve officer appointment existing on August 20, 1968, may be extended, but not beyond 5 years from that date.
4. A Reserve officer who has completed at least 3 years of continuous and satisfactory service on or after August 20, 1968, may be appointed as a Reserve officer with unlimited tenure. (It has also been determined that the Secretary has authority to appoint an officer as an FSRU from any career category in the Department with 3 years of satisfactory service.)
5. A Foreign Service Reserve officer with unlimited tenure shall be:
 - a. A participant in the Foreign Service Retirement and Disability System;
 - b. Subject to the selection-out provisions of sections 633 and 634 of the Foreign Service Act of 1946, as amended; and
 - c. Mandatorily retired for age as follows:

Aug. 21, 1970-Aug. 20, 1971, if age 64 or older
Aug. 21, 1971-Aug. 20, 1972, if age 63 or older
Aug. 21, 1972-Aug. 20, 1973, if age 62 or older
Aug. 21, 1973-Aug. 20, 1974, if age 61 or older
Aug. 21, 1974, and thereafter - age 60

C. Definitions

For purposes of the programs, policies, and procedures discussed herein, the following definitions are applicable:

1. FSR - Foreign Service Reserve officer with limited appointment tenure.
2. FSRU - Foreign Service Reserve officer with unlimited tenure, as authorized in Public Law 90-494.

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3. FAS - Foreign Affairs Specialist--the administrative title identifying FSRU's as a career category and distinguishing them from FSR's.
4. Career Officer - An officer presently serving with the Department under one of the following types of appointment:
 - a. A Civil Service career or career-conditional appointment or an excepted appointment without time limitation, excluding a Schedule C, noncareer, or limited executive appointment;
 - b. A Foreign Service Staff officer appointment without time limitation;
 - c. A Foreign Service Reserve appointment made by conversion or transfer from a career-type appointment described in paragraph a or b above, or made in lieu of such career-type appointment; and
 - d. A Foreign Service officer (FSO) appointment.
5. Noncareer Officer - An officer of the Department presently serving under one of the following types of appointment:
 - a. A Schedule C, noncareer, or limited executive appointment;
 - b. A non-Foreign Service appointment with time limitation;
 - c. A Foreign Service Staff officer appointment with time limitation; and
 - d. A Foreign Service Reserve officer appointment made in lieu of or by conversion from a type described in paragraph a, b, or c above.

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D. Designations of FSRU and FSO Positions .

All officer positions of the Department of State in the United States and abroad have now been designated as FSO or FSRU (FAS) except those established by statute, noncareer or limited executive, and Schedule C positions.

The staffing designation relates to the nature of the position, the function or specialty of which it is a part, and the requirements for staffing. It indicates directly the officer category considered appropriate for staffing the position or function in the future and is not necessarily related to present encumbency.

Statutory positions, noncareer or limited executive positions, and Schedule C positions are available to the Administration for staffing from any source, including individuals from outside the Department and career personnel.

All other officer positions are designated for future staffing by either Foreign Service officers or Foreign Affairs Specialists. The career officer category designators are used in all cases, since career officers will be utilized whenever they are available.

Where it has been determined to be appropriate to the staffing needs of an organizational unit, positions in the same function or specialty may be designated for mixed FSO and FAS staffing. The ratio established by the designations will be maintained in future staffing unless experience indicates that the ratio should be changed.

The position staffing designations provide a basis for determining recruitment, assignment, and promotion requirements, for planning manpower utilization in relation to position requirements, and in determining the eligibility of individual officers for consideration for FAS appointment or FSO lateral entry appointment.

FAS applicants may consult their executive or administrative offices to find out whether their position has been designated FSO or FSRU. A statistical summary of staffing designations of officer positions is given in attachment 1. The data is summarized by functions and organizations and covers all officer positions in the Department and overseas.

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III. CONVERSION AND APPOINTMENT POLICYA. Special FAS Conversion Program

The Board of Examiners for the Foreign Service has over-all responsibility for action on FAS applications. The Board has authorized panels composed of BEX Deputy Examiners to examine and select candidates for appointment under the special FAS conversion program. A panel, including wherever possible a representative from the bureau or office familiar with the applicant's specialty, will review his personnel file to determine whether he meets the criteria. If required standards are satisfied, the panel will certify the applicant as eligible for conversion and will at that time notify him of its action. Appeals from adverse decisions of the panels will be considered by the Board as a whole.

1. Eligibility Requirements and Selection Considerations

As indicated in the sections on "Concept" and "Designations of FSRU and FSO Positions," the position staffing designations will provide a basis but will not be controlling in determining the eligibility of individual officers for consideration for FAS appointment. Exceptions will be made based on experience and qualifications, subject to the approval of the Director of Personnel or his designee.

The following eligibility rules apply to the conversion of officers to FAS, including maximum ages for conversion in order that officers converted to FAS appointment can be retired, where applicable, under the mandatory retirement provisions of Public Law 90-494. A detailed schedule for mandatory retirement is included as attachment 2. A comparison of the major features of the Civil Service and Foreign Service Retirement Systems is given in attachment 3.

a. Career OfficersFSR to FAS:

3 years of satisfactory service with the Department.
Not over age 65 in 1971.
Not over age 62 in 1972.
Not over age 61 in 1973.
Age 62-65 in 1971 must convert by December 31, 1971.
Age 60 or 61 in 1971 must convert by December 31, 1972.
Age 59 or under in 1971 must convert by August 20, 1973.

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FSS (Under Civil Service Retirement System) to FAS:

Citizen of United States for at least 5 years.
3 years of satisfactory service with the Department.
Will not be converted to FAS at any age if mandatory retirement would be extended by reason of FAS appointment.
Not over age 65 in 1971.
Not over age 62 in 1972.
Not over age 61 in 1973.
Age 62-65 in 1971 must convert by December 31, 1971.
Age 60 or 61 in 1971 must convert by December 31, 1972.
Age 59 or under in 1971 must convert by December 31, 1973.

FSS (Under Foreign Service Retirement System) to FAS:

Citizen of United States for at least 5 years.
3 years of satisfactory service with the Department.
Will not be converted to FAS at any age if mandatory retirement would be extended by reason of FAS appointment.
Not over age 59 at time of FAS appointment.
Age 59 in 1971 must convert by December 31, 1971.
Age 58 in 1971 must convert by December 31, 1972.
Age 57 or under in 1971 must convert by December 31, 1973.

FSO to FAS:

3 years of satisfactory service with the Department.
Will not be converted to FAS at any age if mandatory retirement would be extended by reason of FAS appointment.
Not over age 59 at time of FAS appointment.
Age 59 in 1971 must convert by December 31, 1971.
Age 58 in 1971 must convert by December 31, 1972.
Age 57 or under in 1971 must convert by December 31, 1973.

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Civil Service to FAS:

Citizen of United States for at least 5 years.

21 years of age or over.

3 years of satisfactory service with the Department.

Not over age 65 in 1971.

Not over age 62 in 1972.

Not over age 61 in 1973.

Age 62-65 in 1971 must convert by December 31, 1971.

Age 60 or 61 in 1971 must convert by December 31, 1972.

Age 59 or under in 1971 must convert by December 31, 1973.

The only additional criteria to be applied in selecting career officers for conversion to FAS are (1) satisfactory performance, and (2) willingness to serve abroad on a limited basis after FAS appointment or to continue to serve on a worldwide basis as appropriate, unless exempted from service abroad under the paragraph on "Conditions of Service for the FAS."

Personnel files of career officers will be reviewed to verify that they meet the eligibility criteria and that their performance is satisfactory. An oral examination or interview will not be required, but an interview may be required at the discretion of the panel.

b. Noncareer Officers

FSR to FAS:

3 years of satisfactory service with the Department.

Not over age 65 in 1971.

Not over age 62 in 1972.

Not over age 61 in 1973.

Age 62-65 in 1971 must convert by December 31, 1971.

Age 60 or 61 in 1971 must convert by December 31, 1972.

Age 59 or under in 1971 must convert by August 20, 1973.

Certification of need for services as an FAS.

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FSS to FSR (FAS candidate):

Citizen of United States for at least 5 years.
3 years of satisfactory service with the Department.
Not over age 50 at time of FSR appointment.
Must convert to FSR by December 31, 1973.
Certification of need for services as an FAS.

Civil Service to FSR (FAS candidate):

Citizen of United States for at least 5 years.
21 years of age or over.
3 years of satisfactory service with the Department.
Not over age 50 at time of FSR appointment.
Must convert to FSR by December 31, 1973.
Certification of need for services as an FAS.

Noncareer officers who apply for conversion to FSR (FAS candidate) will be considered for selection under the following additional criteria:

- (1) Evaluation of the officer's total qualifications for FSR service, and prospectively for FAS service, in the officer's functional specialty, including his performance record;
- (2) Willingness to serve abroad as needed on a limited basis or to continue to serve on a worldwide basis, as appropriate;
- (3) An interview by a designated officer or panel in individual cases where the need arises; and
- (4) A positive recommendation for conversion at the appropriate FSR class.

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Noncareer officers converted to FSR (FAS candidate) will be considered for FAS appointment after completion of 3 years' service as an FSR under the following criteria in addition to the criteria governing their selection as an FAS candidate. Noncareer FSR applicants for FAS conversion who have completed 3 years' service and who are otherwise eligible will be considered under the same criteria.

- (1) Evaluation of the officer's total qualifications for FAS service in the light of his FSR performance;
- (2) Willingness to serve abroad as needed on a limited basis, or to continue to serve on a worldwide basis, as appropriate;
- (3) An interview by a designated officer or panel in individual cases where the need arises; and
- (4) A positive recommendation for FAS appointment at the appropriate class.

2. Conversion Class and Salary

All conversions will be made to the FSR or FSO class and salary which is most nearly comparable to the officer's present class or grade and salary. Any instances which will result in a loss of salary will be held to a minimum number of cases and to the least salary loss possible. Since some FSS and GS grades and salary steps do not equate directly with FSO/FSR classes and salary steps, officers in some FSS classes and GS grades will have to be converted to two FSO/FSR classes. Conversion tables to govern conversions to the appropriate class and salary are included in attachment 4. In any case where the conversion tables indicate a loss of salary, the officer may apply for conversion to the next higher class as an exception.

3. Conditions of Service for the FAS

a. Service Abroad

Because of the specialized nature of the functions in which Foreign Affairs Specialists will be employed and the need for their extended assignments in those functions, many Foreign Affairs Specialists will spend more time in the United States than abroad.

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As a general policy, officers appointed as FAS, or as FSR candidates for FAS appointment, will normally be expected to serve some time abroad. The length and frequency of tours abroad will vary with the nature and staffing requirements of their functional specialty. Exceptions to this general policy will be made in individual cases when it is determined to be in the Department's interest to continue to utilize an officer's knowledge and skills in the United States, or in the interest of the officer because of medical or family considerations.

In addition to the exceptions that may be made in individual cases, exceptions will be made for the following groups of officers:

- (1) Career officers serving in functions or positions having no counterparts or very limited counterparts abroad who are converted to FAS, and persons appointed as FSR (FAS candidate) in such functions, will not be expected to be available for assignment abroad, but such assignments may be made at their request when appropriate assignments can be arranged to provide them experience in overseas operations.
- (2) Career officers who are not presently subject to service abroad and who are age 50 or over at time of FAS appointment under the Department's conversion program will be encouraged but not expected or required to serve abroad before retirement.

b. Medical Clearances

Officers on the Department's roles who apply for conversion to FSR or FAS appointment must be certified for medical clearance by O/MED under appropriate procedures to be determined by the Medical Director. Family members will not be required to undergo medical examinations until the officer is scheduled for assignment abroad.

c. Foreign Language

Although proficiency in a foreign language is not required, FAS officers will be encouraged to acquire some foreign language proficiency in order to enhance their effectiveness abroad.

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d. Retirement

All officers appointed as FAS will be covered under the provisions of the Foreign Service Retirement System from the date of their FAS appointment.

All officers and employees under the Foreign Service Retirement System become eligible to retire voluntarily at age 50 with 20 years' service and receive an immediate annuity computed at 2% of their highest 3-year average salary times years of service not to exceed 35 years.

Mandatory retirement under the Foreign Service Retirement System is at age 60. However, under the provisions of Public Law 90-494, mandatory retirement of FAS officers will begin with officers who are age 64 or older between August 21, 1970, and August 20, 1971. The mandatory age will be reduced by one year for each succeeding year, so that on August 21, 1974, and thereafter the mandatory age is 60. (See attachment 2.)

This special provision is explained in the section on "Legal Authority."

4. Utilization and Development

Foreign Affairs Specialists will be utilized primarily and on a continuing basis within the field of their functional specialization or related specialties.

They will be provided career counseling and opportunities for training and development within their field of functional specialization or related specialties.

If they demonstrate interest and aptitudes, they may be considered for lateral entry appointment as a Foreign Service officer when there is a need for their services as an FSO.

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5. Promotion

Functional competition will be the basic policy governing promotion competition in the Foreign Service. Foreign Affairs Specialists will compete for promotion with other officers within their functional specialty. Some specialties, or subspecialties, may be grouped with related functions for promotion competition. Determinations will be based on the degree to which a specialty is separate from or related to other specialties and the interchangeability of experience between specialties.

An officer's experience and current functional specialization will determine the group of functional specialists with whom he will compete for promotion. During the transition period for the next few years, it is expected that some mixed competition among FAS's, FSSO's, and FSO's will occur. However, FAS's will be competed with officers in other categories only where such officers are specialists in the same functions.

Specific guidelines and procedures for the promotion of FAS officers will be issued. The guidelines and procedures may provide for variations among the different functional specialties.

6. Separation

Public Law 90-494 provides that Foreign Service Reserve officers appointed with unlimited tenure will be subject to the selection-out provisions of the Foreign Service Act. Section 633 of the Foreign Service Act provides that the Secretary shall prescribe regulations concerning:

- a. The maximum period during which any Foreign Service officer below the class of career minister shall be permitted to remain in class without promotion; and
- b. The standard of performance which any such officer must maintain to remain in the Service.

Section 634 of the Foreign Service Act provides that:

- a. Any Foreign Service officer in class 1, 2, or 3 who is selected-out shall be eligible to receive an immediate annuity computed under the provisions of section 821; and

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- b. Any Foreign Service officer in classes 4 through 7 who is selected-out shall receive a selection-out benefit of up to 1 year's salary based on length of service.

Under the Secretary's authority to prescribe regulations governing selection-out, the applicability of selection-out to Foreign Affairs Specialists will be as follows:

- a. The criteria applicable to Foreign Affairs Specialists for determining selection-out based on standard of performance will be published for the information of all concerned. These criteria for FAS officers may be different from those applicable to FSO's.
- b. Maximum time-in-class criteria applicable to FAS officers in each specialty will be established and published, taking into account factors such as the present and anticipated supply of persons with the required knowledge and skills and the degree of continuity needed in the particular functional specialty. Time-in-class criteria for FAS officers may be the same as or longer than those for FSO's in corresponding classes, but they will not be shorter.
- c. Noncareer officers appointed as FAS will be subject to selection-out on the basis of performance ranking and time-in-class for their class and specialty from the time of their FAS appointment.
- d. Career officers appointed as FAS whose present personnel category is not subject to selection-out will be exempted from selection-out on the basis of performance ranking for a period of years equal to the maximum time-in-class applicable to their FAS appointment class and specialty, or for 10 years, whichever is less. This exemption will cease for an individual officer upon his promotion out of his initial FAS class, or upon appointment as a Foreign Service officer.

These FAS officers will be subject to the maximum time-in-class criteria established for their class and specialty from the time of their FAS appointment.

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- e. A Foreign Service officer appointed as FAS will be subject to selection-out on the basis of performance ranking and time-in-class for his class and specialty from the time of his FAS appointment. Conversions from one category to another will not be approved to enable an officer to avoid selection-out.

7. Application for Conversion

Requests for conversion to FSR or FAS will be considered only upon receipt of a written application in the Office of Personnel. A standard memorandum of application will be provided by the executive or administrative offices.

Question-and-answer data are contained in attachment 5. Personnel wishing further information may avail themselves of counseling service by contacting their executive or administrative offices. Additional information is available through (1) the appropriate Counseling and Assignments office in PER/CA or (2) the Civil Service Staffing Operations office in PER/CA.

B. Regular Appointment Policy

As the Department begins to develop the Foreign Affairs Specialist Corps through a program of voluntary conversions, appointments of officers from outside will be made under authority of the Foreign Service Act, with the exceptions stated below for certain noncareer appointments.

After the transition is completed over a period of years all career officers will be in two career categories--Foreign Service officers (FSO) and Foreign Affairs Specialists (FAS).

All noncareer officers eventually will be Foreign Service Reserve officers under limited appointment tenure (FSR), except for non-career executive, limited executive, or Schedule C appointees. The latter will be used for positions up through GS-15 that involve a confidential relationship to key policy-determining officials. Such positions above the GS-15 level are noncareer executive or limited executive. Limited FSR appointments will be used for (a) initial appointment of officers recruited as FAS candidates, or as FSO lateral entry candidates, (b) short-term specialists, (c) exchanges of personnel from other agencies and exchange or enrichment appointments from industry or academia, and (d) noncareer or limited executive positions above the GS-15 level when authorized spaces are not available.

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Those recruited as FAS candidates will be converted to FAS appointment or separated during their third to fifth years of service. Those recruited as FSO lateral entry candidates will be examined under lateral entry procedures after completion of the required period of service. Others who are recruited to meet short-term, specialized requirements will remain under FSR limited appointment.

Since FAS officers are covered under the Foreign Service Retirement System, with mandatory retirement at age 60, persons recruited as FAS candidates must be age 50 or under at time of FSR appointment.

IV. FSO LATERAL ENTRY PROGRAM

Conversions to FSO appointment under the lateral entry provisions of the Foreign Service Act will be carried out concurrently with the FAS conversion program. Consideration of applications for FSO appointment of both career and noncareer officers will be subject to the provisions of section 517 of the Foreign Service Act and the regulations set forth in 3 FAM 122.

Eligibility criteria for lateral entry FSO appointment remain as stated in 3 FAM 122.2-3, except that there is a presumed need for the services of career officers as FSO's if they are otherwise eligible and are serving in FSO-designated functions or positions.

Applicants for lateral entry appointment as a Foreign Service officer should be under age 54 on the date of application as stated in 3 FAM 122.2-3c(3).

All officers appointed as FSO's must be available for service abroad as needed.

Career officers who convert to FSO appointment will be exempted from selection-out for performance ranking for two full performance rating periods in order to provide for the establishment of a comparable record for purposes of promotion competition.

Medical clearance under Foreign Service standards for the officer and members of his family will be required before final approval.

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The Board of Examiners for the Foreign Service has authorized panels made up of Deputy Examiners designated by the Board to administer lateral entry examinations. The panels will give special weight to the performance record of an applicant in his functional field; and will give particular attention to such factors as the officer's qualifications for service abroad, and his willingness and availability to serve abroad as needed. Appeals from adverse decisions of the panels will be considered by the Board as a whole.

A standard memorandum of application will be provided for career officers who wish to apply for conversion to FSO as discussed above. This will be used in lieu of Standard Form 171 and other documents prescribed in 3 FAM 122.2-3e.

V. EMPLOYEES WHO DO NOT CONVERT

A. Officers

1. Utilization and Promotion

The Department will continue to utilize the skills of those officers serving in FSO- or FSRU-designated positions who are ineligible for FSO or FAS appointment and those who decide not to apply for conversion.

Special policies and procedures will be developed and published to provide appropriate assignment and promotion opportunities for such officers. The Department wants to ensure that no employee's rights are violated, and further, that all of its employees have reasonable opportunities for utilization and development of their skills. As the plan for implementation of a Foreign Affairs Specialist Corps progresses, however, it must be expected that promotional opportunities for those remaining in positions designated for FSO or FAS staffing are bound to decrease.

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2. Reconversion to Former Status

Officers who were appointed as FSR's on or before August 20, 1968, and who have reinstatement rights in the Department, may exercise their reinstatement rights and be reappointed in their former appointment category at any time before August 20, 1973, if they do not wish to convert to FAS or FSO. This also applies to officers who were appointed as FSR's after August 20, 1968, with reinstatement rights in the Department, except that they have until December 31, 1973, to exercise their reappointment rights and be reappointed in their former appointment category.

All such officers must convert to FAS, revert to their former appointment category, or be appointed as Foreign Service officers by August 20, 1973, under the provisions of Public Law 90-494. Officers appointed as FSR after August 20, 1968, cannot be extended beyond 5 years from date of appointment, except in the case of an employee assigned from another agency as described in the section on "Legal Authority."

B. Other Employees

Persons on the rolls of the Department, GS or FSS, who are now ineligible for FAS appointment or FSO lateral entry will have opportunities for acquiring officer status. Additional information will be provided.

Attachment 1
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DEPARTMENT OF STATE
STAFFING DESIGNATIONS OF OFFICER POSITIONS
SUMMARY BY FUNCTION

FUNCTION	GRAND TOTAL	OVERSEAS				TOTAL			
		FSO	FSRU	TOTAL	FSO	FSRU	TOTAL	FSO	FSRU
EXECUTIVE/PROGRAM DIRECTION	572								
ADMINISTRATIVE	2556	214	1020	1234	578	744	1322	792	1764
CONSULAR	804	73	166	239	565	-	565	638	166
ECONOMIC/COMMERCIAL	778	184	22	206	560	12	572	744	34
POLITICAL/INFO-CULT	1701	607	260	867	830	4	834	1437	264
SPECIAL PROFESSIONAL	517	8	387	395	1	121	122	9	508
TOTAL	6356	1086	1855	2941	2534	881	3415	3620	2736
GRAND TOTAL	6928								

Excludes: Detail Out, Training and Special Complement Positions.

February 16, 1971

DEPARTMENT OF STATE
STAFFING DESIGNATIONS OF OFFICER POSITIONS
BY FUNCTION OR SPECIALTY

<u>TITLE</u>	<u>SKILL CODE</u>	<u>POSITIONS IN U.S.</u>			<u>POSITIONS OVERSEAS</u>			<u>TOTAL</u>	
		<u>FSO</u>	<u>FSRU</u>	<u>TOTAL</u>	<u>FSO</u>	<u>FSRU</u>	<u>TOTAL</u>	<u>FSO</u>	<u>FSRU</u>
<u>ADMINISTRATION FIELD</u>									
Admin Officer	2021	66	49	115	209	5	214	275	54
Admin Officer (Int'l Org)	2025	5	6	11	2	0	2	7	6
Special Assistant	2023	5	4	9	6	2	8	11	6
Staff Assistant	2028	3	8	11	0	0	0	3	8
Budget & Fiscal Group	2105 - 2120	34	64	98	118	1	119	152	65
Disbursing Officer	2135	0	0	0	0	24	24	0	24
Fiscal Specialist	2145	3	52	55	0	4	4	3	56
Accountant	2155	0	13	13	0	0	0	0	13
Foreign Currency Officer	2180	1	2	3	0	0	0	1	2
Financial Systems Officer	2185, 2186	3	10	13	0	0	0	3	10
Personnel Officer Group	2205 - 2295	52	92	144	66	0	66	118	92
General Service Officer	2310	8	8	16	152	4	156	160	12
GSO-Procurement&Supply Officer	2315, 2317, 2850	4	26	30	22	2	24	26	28
GSO-Buildings Management	2320	0	8	8	2	7	9	2	15
GSO-BuildingsServiceSpecialist	2340	0	4	4	0	24	24	0	28
GSO-Travel & Transportation	2330	4	23	27	0	0	0	4	23
GSO-Motor Transportation	2331	0	2	2	0	0	0	0	2
GSO-Freight Traffic	2332	0	16	16	0	0	0	0	16
Printing&Publications Officer	2350 - 2352	0	13	13	0	0	0	0	13
Contract Specialist	2360	0	13	13	0	0	0	0	13
Communications&Records Group	2410, 2415, 2421	0	158	158	0	246	246	0	404
Communications Technician	2430 - 2435	0	46	46	0	32	32	0	78
Diplomatic Courier	2440	0	31	31	0	54	54	0	85
Mail & Records Group	2450 - 2465	0	85	85	0	6	6	0	91
Telecommunications Group	2470 - 2475	0	0	0	0	239	239	0	239
Security Group	2510 - 2520	0	164	164	0	79	79	0	243
Organization&Management Group	2610 - 2660	24	37	61	1	0	1	25	37
Auditor	2670, 2671	0	16	16	0	0	0	0	16
Computer Systems Group	2703, 2710	0	26	26	0	0	0	0	26
Computer Programmer	2720	0	16	16	0	0	0	0	16

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<u>TITLE</u>	<u>SKILL CODE</u>	<u>POSITIONS IN U.S.</u>			<u>POSITIONS OVERSEAS</u>			<u>TOTAL</u>	
		<u>FSO</u>	<u>FSRU</u>	<u>TOTAL</u>	<u>FSO</u>	<u>FSRU</u>	<u>TOTAL</u>	<u>FSO</u>	<u>FSRU</u>
<u>ADMINISTRATION FIELD - cont'd:</u>									
Allowances Officer	2810, 2811	1	6	7	0	0	0	1	6
Foreign Buildings Officer	2820, 2821	0	13	13	0	15	15	0	28
Interior Designer	2827	0	5	5	0	0	0	0	5
Evacuation Officer	2835	1	0	1	0	0	0	1	0
Claims Examiner	2840	0	3	3	0	0	0	0	3
Correspondence Officer	2860	0	3	3	0	0	0	0	3
<hr/>		<hr/>	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
TOTAL ADMINISTRATION:		214	1020	1234	578	744	1322	792	1764
 <u>CONSULAR FIELD</u>									
Consular/Visa Officer	3010, 3013, 3025	40	25	65	510	0	510	550	25
Cons.Off.-Spec.Cons.Service	3045, 3058	20	4	24	25	0	25	45	4
Cons.Off.-PPT & Citizenship	3035	13	137	150	30	0	30	43	137
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TOTAL CONSULAR:		73	166	239	565	0	565	638	166
 <u>ECONOMIC/COMMERCIAL FIELD</u>									
Economic/Commercial Officer	5010, 5028	42	11	53	494	0	494	536	11
Trade Promotion Officer	5055	0	0	0	28	0	28	28	0
International Economist	5105, 5110	97	2	99	18	0	18	115	2
Financial Economist	5120	11	0	11	8	0	8	19	0
International Transportation & Communications Group	5230 - 5233	16	5	21	9	2	11	25	7
Fisheries Officer	5250	0	4	4	0	4	4	0	8
Metals & Minerals Officer	5260	0	0	0	0	6	6	0	6
Petroleum Officer	5270	0	0	0	3	0	3	3	0
<hr/>		<hr/>	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
TOTAL ECONOMIC/COMMERCIAL:		166	182	348	1572	12	1584	1726	34

TITLE	SKILL CODE	POSITIONS IN U.S.			POSITIONS OVERSEAS			TOTAL	
		FSO	FSRU	TOTAL	FSO	FSRU	TOTAL	FSO	FSRU
<u>POLITICAL AND RELATED FUNCTIONS</u>									
International Relations Officer	5510-5518	254	39	293	61	3	64	315	42
Pol/Econ,AtlanticOff.,Pol.Off.	5530 - 5550	102	12	114	691	0	691	793	12
Political/Military Affairs Off.	5570	30	4	34	27	0	27	57	4
Int'l.Rel.Off.-Scientific Aff.	5580	9	0	9	0	0	0	9	0
Int'l.Rel.Off.-Protocol Off.	5585	0	0	0	2	0	2	2	0
Political Officer-Labor	5610	8	0	8	47	0	47	55	0
Intell.Research Analysis	5820 - 5830	60	124	184	0	0	0	60	124
& Coordination Group									
Educational & Cultural Group	4010 - 4100	100	26	126	0	0	0	100	26
Information Officer Group	4510 -4568	44	55	99	2	1	3	46	56
<u>TOTAL POLITICAL AND RELATED FUNCTIONS:</u>									
		607	260	867	830	4	834	1437	264
<u>SPECIAL PROFESSIONAL & TECHNICAL FIELD</u>									
Architect	6010 - 6035	0	10	10	0	0	0	0	10
Engineering & Technician Group	6040 - 6075	0	14	14	0	15	15	0	29
Medical Officer	6120	0	7	7	0	31	31	0	38
Nurse	6140	0	13	13	0	32	32	0	45
Microbiologist	6156	0	1	1	0	0	0	0	1
Medical Technician	6130	0	3	3	0	4	4	0	7
Physical Science Officer	6150	2	10	12	1	17	18	3	27
Attorney Advisor	6220	0	83	83	0	6	6	0	89
Treaties Specialist	6285	0	10	10	0	0	0	0	10
Education Officer	6250	0	12	12	0	0	0	0	12
Foreign Assistance Inspector	6260	0	23	23	0	0	0	0	23
Geographer	6270, 6272	0	8	8	0	4	4	0	12
Historian	6280	0	30	30	0	0	0	0	30
Librarian	6290	0	15	15	0	0	0	0	15
Refugee&Migration Officer	6310	0	3	3	0	0	0	0	3
Fine Arts Group	6321 - 6332	0	29	29	0	0	0	0	29
Protocol Specialist	6345	2	29	31	0	0	0	2	29
Congressional Relations Officer	6350	1	6	7	0	0	0	1	6

<u>TITLE</u>	<u>SKILL CODE</u>	<u>POSITIONS IN U.S.</u>			<u>POSITIONS OVERSEAS</u>			<u>TOTAL</u>	
		<u>FSO</u>	<u>FSRU</u>	<u>TOTAL</u>	<u>FSO</u>	<u>FSRU</u>	<u>TOTAL</u>	<u>FSO</u>	<u>FSRU</u>
<u>SPECIAL PROFESSIONAL & TECHNICAL FIELD</u>									
Language Officer	6410 - 6413	0	38	38	0	2	2	0	40
Training Officer	6510 - 6517	3	13	16	0	1	1	3	14
Scientific Linguist	6540	0	29	29	0	9	9	0	38
Reports Officer-Statistician	6170	0	1	1	0	0	0	0	1
<hr/>									
<u>TOTAL SPECIAL PROFESSIONAL & TECHNICAL</u>		8	387	395	1	121	122	9	508

Approved For Release 2003/09/03 : CIA-RDP88-01000R000100010001-8

Attachment 1
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DEPARTMENT OF STATE
STAFFING DESIGNATIONS OF OFFICER POSITIONS

<u>IN THE UNITED STATES</u>				<u>OVERSEAS</u>			
<u>AREA</u>	<u>FSO</u>	<u>FSRU</u>	<u>TOTAL</u>	<u>FSO</u>	<u>FSRU</u>	<u>TOTAL</u>	
S	29	16	45				
S/S-EX	60	20	80				
S/CPR	2	33	35				
U	5	2	7				
J	2	1	3				
D	27	11	38				
SCI	11	12	23				
IGA	1	33	34				
L	1	76	77				
E	131	7	138				
INR	77	145	222				
H	4	7	11				
P	17	64	81				
ARA	96	9	105	671	119	790	895
EUR	123	7	130	899	264	1163	1293
EA	99	2	101	508	204	712	813
NEA	72	3	75	398	171	569	644
AF	73	5	78	413	149	562	640
IO	59	40	99				
CU	127	45	172				

NOTE: Regional bureaus will be expected to distribute the appropriate section of the Staffing Pattern (as of January 31, 1971) to individual posts to provide details on position staffing designations.

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STAFFING DESIGNATIONS OF OFFICER POSITIONS - cont'd:

<u>IN THE UNITED STATES</u>				<u>OVERSEAS</u>			<u>GRAND</u>
<u>AREA</u>	<u>FSO</u>	<u>FSRU</u>	<u>TOTAL</u>	<u>FSO</u>	<u>FSRU</u>	<u>TOTAL</u>	<u>TOTAL</u>
O	7	11	18				
MED	4	31	35				
FI	20	0	20				
DG	75	73	148				
OPR	20	317	337				
FBO	0	45	45				
A/BF	14	90	104				
OM	16	32	48				
SY	3	170	173				
FSI	39	73	112				
OC	4	241	245				
SCA	75	218	293				
	<u>1293</u>	<u>1839</u>	<u>3132</u>	<u>2889</u>	<u>907</u>	<u>3796</u>	<u>6928</u>

Total FSO Positions 4182
Total FSRU Positions 2746
6928

Excludes: Detail Out, Training and Special Complement Positions.

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MANDATORY RETIREMENT SCHEDULE3 FAM 672.2-5 Age Retirement of Reserve Officers of the Department or the Agency With Unlimited Tenure

Any Reserve officer of the Department or the Agency with unlimited tenure who is a participant in the Foreign Service Retirement and Disability System shall be retired when he reaches the mandatory retirement age shown below:

<u>AGE</u>	<u>RETIREMENT DATE</u>
Age 64 or older on August 21, 1970	August 31, 1970
Attainment of age 64 between August 22, 1970, and August 20, 1971	End of month in which age 64 is attained
Becomes participant at age 64 or over between August 21, 1970, and August 20, 1971	End of month in which he becomes participant
Age 63 or older on August 21, 1971	August 31, 1971
Attainment of age 63 between August 22, 1971, and August 20, 1972	End of month in which age 63 is attained
Becomes participant at age 63 or over between August 21, 1971, and August 20, 1972	End of month in which he becomes a participant
Age 62 or older on August 21, 1972	August 31, 1972
Attainment of age 62 between August 22, 1972, and August 20, 1973	End of month in which age 62 is attained
Becomes participant at age 62 or over between August 21, 1972, and August 20, 1973	End of month in which he becomes participant

Attachment 2

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3 FAM 672.2-5 Age Retirement of Reserve Officers of the
Department or the Agency With Unlimited Tenure

(Continued)

<u>AGE</u>	<u>RETIREMENT DATE</u>
Age 61 or older on August 21, 1973	August 31, 1973
Attainment of age 61 between August 22, 1973, and August 20, 1974	End of month in which age 61 is attained
Becomes participant at age 61 or over between August 21, 1973, and August 20, 1974	End of month in which he becomes participant
Age 60 or older on August 21, 1974	August 31, 1974
Attainment of age 60 on and after August 22, 1974	End of month in which age 60 is attained
Becomes participant at age 60 or older on or after August 21, 1974	End of month in which he becomes participant

COMPARISON OF PRINCIPAL FEATURES OF THE CIVIL SERVICE AND FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEMS

(Further details are provided in 3 FAM 670 and 675.)

	CIVIL SERVICE	FOREIGN SERVICE
1. Participants in Systems	All Federal and D. C. Government employees except certain temporary and intermittent employees and employees subject to another retirement system (e. g., Foreign Service Reserve officers under limited appointment in excess of 1 year; FSR's in A. I. D. under unlimited appointment; FSS employees of State and USIA for first 10 years; FSS employees of other agencies).	All Foreign Service officers, Foreign Service information officers, and Foreign Service Reserve officers in State Department and U. S. Information Agency with unlimited tenure; FSS employees with 10 years' continuous service in the Foreign Service of State or USIA.
2. Employee Contributions	7%	7%
3. Service Credit	Federal and D. C. Governments, military service and sick leave.	Federal and D. C. Governments, military service and sick leave (time-and-a-half credit for service at unhealthful posts abroad, if elected).
4. Basic Salary for Computing Annuity Formula	"High 3" average salary.	"High 3" average salary.
5. % Factor in Annuity Formula	"High 3" average salary is multiplied by the sum of: 1-1/2% times 5 years of service; 1-3/4% times years of service between 5 and 10; and 2% times years of service over 10. Formula for quick computation; years of service x 2-4; e. g., 35 years x 2 = 70% of "high 3" average salary.	"High 3" average salary is multiplied by 2% of total years of service not exceeding 35. Formula for quick computation: years of service x 2%; e. g., 35 years x 2 = 70% of "high 3" average salary.

		CIVIL SERVICE	FOREIGN SERVICE
6.	Maximum	80% of "high 3" average salary.	70% of "high 3" average salary.
7.	Compulsory Retirement Age	Age 70 Exception: If service credit is less than 15 years, employment may continue beyond 70 until 15-year service credit is accumulated.	Age 60 Exception: Age 65 for career ambassadors and career ministers.
8.	Optional Retirement Age	Age 62, with 5 years of service. Age 60, with 20 years. Age 55, with 30 years.	Age 50, with 20 years of service with consent of the Secretary of State.
9.	Involuntary Separation	Involuntary separation (for reasons other than misconduct or delinquency) at age 50 or over with 20 years of service or at any age after 25 years of service. (Annuity is reduced 1/6th of 1% for each month employee is under age 55.)	Selection-out of a Foreign Service officer, Foreign Service information officer, or Foreign Service Reserve officer unlimited of class 1, 2, or 3, or failure of an officer to receive a new assignment within 3 months after completing service as a chief of mission: Immediate annuity. Those selected-out in classes 4 through 7 not eligible for immediate annuity: one-twelfth of a year's salary for each year of service up to a maximum of one year's salary. (Classes 4 and below may elect a deferred annuity at age 60, or a refund of contribution.)
10.	Voluntary Contributions	Up to 10% of salary in \$25 multiples, 3% interest.	Up to 10% of salary in multiples of 1% of salary, 3% interest.

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	CIVIL SERVICE	FOREIGN SERVICE
11. Military Service Credit	Full credit for honorable service in Armed Forces--no contribution required.	Full credit for honorable service in the Armed Forces--no contribution required.
12. Disability Retirement	<p>With 5-year service credit: Full annuity computed according to item 5 above with no reduction for age.</p> <p>Depending on age, a guaranteed minimum is sometimes applicable in disability cases.</p> <p>A Civil Service disability annuity continues until recovery or until the annuitant is restored to an earning capacity. Up to \$100 per week of the annuity is exempt from Federal income tax until the annuitant reaches age 55, 60, or 62, depending on length of service.</p>	<p>With 5-year service credit: Full annuity computed according to item 5 above.</p> <p>Depending on age, a minimum of 20 years is sometimes used in computing the annuity.</p> <p>A Foreign Service disability annuity continues until recovery. It is exempt from Federal income tax under 26 U. S. C. 104(4).</p>
13. Death Benefits (In Service)	<p>Minimum civilian service for Civil Service survivor annuity: 18 months.</p> <p>Widow or widower receives 55% of employee's annuity.</p>	<p>Minimum civilian service for Foreign Service survivor annuity: 18 months. Widow or dependent widower receives 50% of annuity except the minimum annuity for widows is \$2, 400.</p>
<p>NOTE. Except for age limit--18 years under the Foreign Service System and 22 years under the Civil Service System if student--children's benefits are substantially the same.</p>		

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	CIVIL SERVICE	FOREIGN SERVICE
14. Death Benefits (After Retirement)	Widow or widower receives 55% of amount of employee's annuity elected as survivor base. Retiree's annuity reduced by 2-1/2% of first \$3,600 plus 10% of amount over \$3,600 of sum elected as base for survivor annuity.	Widow or widower receives 50% of the amount of the annuity elected as survivor base. Retiree's annuity reduced by 2-1/2% of first \$2,400 plus 10% of amount over \$2,400 of sum elected as base for survivor annuity; however, a married male participant at retirement is required to accept, at a minimum, a \$300 annual reduction in annuity to provide a \$2,400 survivor annuity for his wife.

CLASS AND SALARY CONVERSION POLICY AND GUIDELINES

The general policy will be to make conversions at substantially equivalent salary levels keeping in mind the desirability of avoiding, insofar as possible, any decreases in salaries of employees who are converting to FSRU (FAS). Under this policy, the following guidelines will be applied:

1. Conversion will be to the lowest rate of a Foreign Service Reserve officer class that will avoid a salary loss and maintain equitable grade and class relationships except:
 - a. To avoid the splitting of a GS grade or FSS class into more than two FSRU classes.
 - b. To avoid converting an employee in a given GS grade to a Foreign Service Reserve officer class above that to which employees in a higher GS grade will be converted.

Example: An employee in the tenth step of GS-10 will be converted to the seventh step of FSR-6 rather than to the third step of FSR-5 because employees in the first four steps of GS-11 would be converted to the third, fourth, fifth, and sixth steps of FSR-6.

2. In any case where the conversion tables indicate a loss of salary, the officer may apply for conversion to the next higher class as an exception.

Class and salary conversion tables for GS and FSS change to FSRU (FAS) are attached.

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CLASS AND SALARY CONVERSION TABLE
GS TO FSRU (FAS)

GS Grade/ Step	Step Increase	Present GS Salary	Comparable FSRU Salary/Class/Step	Gain or Loss
18/1		36,000	36,000 1/3	0
17/5	1085	36,000	36,000 1/3	0
17/4		35,801	36,000 1/2	199
17/3		34,716	35,617 1/1	901
17/2		33,631	35,617 1/1	1986
17/1		32,546	35,617 1/1	3071
16/9	736	35,633	33,521 2/7	-2112
16/8		34,695	33,521 2/7	-1174
16/7		33,757	33,521 2/7	-236
16/6		32,819	33,521 2/7	702
16/5		31,881	32,590 2/6	709
16/4		30,943	31,659 2/5	716
16/3		30,005	30,728 2/4	723
16/2		29,067	29,797 2/3	730
16/1		28,129	28,866 2/2	737
15/10	808	31,523	31,659 2/5	136
15/9		30,715	30,728 2/4	13
15/8		29,907	30,728 2/4	821
15/7		29,099	29,797 2/3	698
15/6		28,291	28,866 2/2	575
15/5		27,483	27,935 2/1	452
15/4		26,675	27,935 2/1	1260
15/3		25,867	26,563 3/7	696
15/2		25,059	25,087 3/5	28
15/1		24,251	24,349 3/4	98
14/10	694	27,061	26,563 3/7	-498
14/9		26,367	26,563 3/7	196
14/8		25,673	25,825 3/6	152
14/7		24,979	25,087 3/5	108
14/6		24,285	24,349 3/4	64
14/5		23,591	23,611 3/3	20
14/4		22,897	23,611 3/3	714
14/3		22,203	22,873 3/2	670
14/2		21,509	22,135 3/1	626
14/1		20,815	22,135 3/1	1320

GS Grade/ Step	Step Increase	Present GS Salary	Comparable FSRU Salary/Class/Step	Gain or Loss
13/10	592	23,089	23,611 3/3	522
13/9		22,497	22,873 3/2	376
13/8		21,905	22,135 3/1	230
13/7		21,313	21,313 4/7	0
13/6		20,721	20,721 4/6	0
13/5		20,129	20,129 4/5	0
13/4		19,537	19,537 4/4	0
13/3		18,945	18,945 4/3	0
13/2		18,353	18,353 4/2	0
13/1		17,761	17,761 4/1	0
12/10	501	19,549	20,129 4/5	580
12/9		19,048	19,537 4/4	489
12/8		18,547	18,945 4/3	398
12/7		18,046	18,353 4/2	307
12/6		17,545	17,761 4/1	216
12/5		17,044	17,318 5/7	274
12/4		16,543	16,837 5/6	294
12/3		16,042	16,356 5/5	314
12/2		15,541	15,875 5/4	334
12/1		15,040	15,394 5/3	354
11/10	421	16,404	16,837 5/6	433
11/9		15,983	16,356 5/5	373
11/8		15,562	15,875 5/4	313
11/7		15,141	15,394 5/3	253
11/6		14,720	14,913 5/2	193
11/5		14,299	14,432 5/1	133
11/4		13,878	13,903 6/6	25
11/3		13,457	13,506 6/5	49
11/2		13,030	13,109 6/4	73
11/1		12,615	12,712 6/3	97
10/10	384	14,973	14,300 6/7	-673
10/9		14,589	14,300 6/7	-289
10/8		14,205	14,300 6/7	195
10/7		13,821	13,903 6/6	82
10/6		13,437	13,506 6/5	69
10/5		13,053	13,109 6/4	56
10/4		12,669	12,712 6/3	43
10/3		12,285	12,315 6/2	30
10/2		11,901	11,918 6/1	17
10/1		11,517	11,918 6/1	401

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GS Grade/ Step	Step Increase	Present GS Salary	Comparable FSRU Salary/Class/Step	Gain or Loss
9/10	344	13,611	13,903 6/6	292
9/9		13,262	13,506 6/5	244
9/8		12,913	13,109 6/4	196
9/7		12,564	12,712 6/3	148
9/6		12,215	12,315 6/2	100
9/5		11,866	11,918 6/1	52
9/4		11,517	11,684 7/6	167
9/3		11,168	11,350 7/5	182
9/2		10,819	11,016 7/4	197
9/1		10,470	10,682 7/3	212
8/10	316	12,337	12,018 7/7	-319
8/9		12,021	12,018 7/7	-3
8/8		11,705	12,018 7/7	313
8/7		11,389	11,684 7/6	295
8/6		11,073	11,350 7/5	277
8/5		10,757	11,016 7/4	259
8/4		10,441	10,682 7/3	241
8/3		10,125	10,348 7/2	223
8/2		9,809	10,014 7/1	205
8/1		9,493	10,014 7/1	521
7/10	286	11,156	11,350 7/5	194
7/9		10,870	11,016 7/4	146
7/8		10,584	10,682 7/3	98
7/7		10,298	10,298 8/7	0
7/6		10,012	10,012 8/6	0
7/5		9,726	9,726 8/5	0
7/4		9,440	9,440 8/4	0
7/3		9,154	9,154 8/3	0
7/2		8,868	8,868 8/2	0
7/1		8,582	8,582 8/1	0

CLASS AND SALARY CONVERSION TABLE
FSS TO FSRU (FAS)

FSS Grade/ Step	Step Increase	Present FSS Salary	Comparable FSRU Salary/Class/Step	Gain or Loss
1/10	738	28,777	28,866 2/2	89
1/9		28,039	28,866 2/2	827
1/8		27,301	27,935 2/1	634
1/7		26,563	26,563 3/7	0
1/6		25,825	25,825 3/6	0
1/5		25,087	25,087 3/5	0
1/4		24,349	24,349 3/4	0
1/3		23,611	23,611 3/3	0
1/2		22,873	22,873 3/2	0
1/1		22,135	22,135 3/1	0
2/10	592	23,089	23,611 3/3	522
2/9		22,497	22,873 3/2	376
2/8		21,905	22,135 3/1	230
2/7		21,313	21,313 4/7	0
2/6		20,721	20,721 4/6	0
2/5		20,129	20,129 4/5	0
2/4		19,537	19,537 4/4	0
2/3		18,945	18,945 4/3	0
2/2		18,353	18,353 4/2	0
2/1		17,761	17,761 4/1	0
3/10	481	18,761	18,945 4/3	184
3/9		18,280	18,353 4/2	73
3/8		17,799	18,353 4/2	554
3/7		17,318	17,318 5/7	0
3/6		16,837	16,837 5/6	0
3/5		16,356	16,353 5/5	0
3/4		15,875	15,875 5/4	0
3/3		15,394	15,394 5/3	0
3/2		14,913	14,913 5/2	0
3/1		14,432	14,432 5/1	0
4/10	397	15,491	15,875 5/4	384
4/9		15,094	15,394 5/3	300
4/8		14,697	14,913 5/2	216
4/7		14,300	14,300 6/7	0
4/6		13,903	13,903 6/6	0
4/5		13,506	13,506 6/5	0
4/4		13,109	13,109 6/4	0
4/3		12,712	12,712 6/3	0
4/2		12,315	12,315 6/2	0
4/1		11,918	11,918 6/1	0

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FSS Grade/ Step	Step Increase	Present FSS Salary	Comparable FSRU Salary/Class/Step	Gain or Loss
5/10	356	13,869	13,903 6/6	34
5/9		13,540	13,903 6/6	363
5/8		13,184	13,506 6/5	322
5/7		12,828	13,109 6/4	281
5/6		12,472	12,712 6/3	240
5/5		12,116	12,315 6/2	199
5/4		11,760	11,918 6/1	158
5/3		11,404	11,684 7/6	280
5/2		11,048	11,350 7/5	302
5/1		10,692	11,016 7/4	324
6/10	320	12,467	12,018 7/7	-449
6/9		12,147	12,018 7/7	-129
6/8		11,827	12,018 7/7	191
6/7		11,507	11,684 7/6	177
6/6		11,187	11,350 7/5	163
6/5		10,867	11,016 7/4	149
6/4		10,547	10,682 7/3	135
6/3		10,227	10,348 7/2	121
6/2		9,907	10,014 7/1	107
6/1		9,587	10,014 7/1	427
7/10	287	11,181	11,350 7/5	169
7/9		10,894	11,016 7/4	122
7/8		10,607	10,682 7/3	75
7/7		10,320	10,348 7/2	28
7/6		10,033	10,298 8/7	265
7/5		9,746	10,012 8/6	266
7/4		9,459	9,726 5/5	267
7/3		9,172	9,440 8/4	268
7/2		8,885	9,154 8/3	269
7/1		8,598	8,868 8/2	270

QUESTIONS AND ANSWERS RELATING TO THE
FOREIGN AFFAIRS SPECIALIST CORPS

I. FAS CONVERSION PROGRAM

A. General

1. Q. How can an officer find out whether his position has been designated for FSO or FSRU staffing?

A. Information on the designation of the position to which you are currently assigned may be obtained from executive or administrative offices.
2. Q. How does one apply for conversion to FAS?

A. By completing the application form (standard memorandum) and sending it to the Board of Examiners (BEX), Department of State, Washington, D.C. 20520. Application forms may be obtained from executive and administrative officers.
3. Q. Are any other forms of documents required in support of an application?

A. In most instances additional information will not be required. However, it may be necessary in a small number of cases to request further information.
4. Q. What will BEX do when it receives an application from a career officer?

A. A panel composed of BEX Deputy Examiners and, wherever possible, a representative from the bureau or office familiar with the applicant's specialty, will review his personnel file to determine whether he meets the criteria. If required standards are satisfied, BEX will certify the applicant as eligible for conversion and will at the same time notify him of its action.

If BEX cannot certify the applicant it will advise him of the reason.

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5. Q. Will an oral examination or personal interview be required?
- A. An oral interview will not be required. An interview may be scheduled at the discretion of the examining panel.
6. Q. Will a language proficiency test be required?
- A. No.
7. Q. Will FAS officers be required to attain a language capability after appointment?
- A. No.
8. Q. Will officers appointed as FAS be expected to serve abroad?
- A. Generally, yes. The length and frequency of tours abroad will vary with the nature and staffing requirements of their functional specialty.

However, the following exceptions will be made:

- (a) When it is determined to be in the Department's interest to continue to utilize an officer's knowledge and skills in the United States, and because of medical or family considerations;
 - (b) When the officer is serving in functions or positions having no counterparts or very limited counterparts abroad; and
 - (c) If the officer is not presently subject to service abroad and is age 50 or over at the time of FAS appointment.
9. Q. How much time will an FAS be expected to serve abroad?
- A. Most Foreign Affairs Specialists will normally be expected to serve some time abroad. Some FAS officers, depending on the nature and staffing requirements of their functional specialties, will have frequent and regular assignments abroad. Others serving in functions or positions with a small number of counterparts abroad may expect to remain in the United States about 8 out of 10 years.

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10. Q. Suppose an applicant is not certified for conversion. Does this adversely affect or change his present status?
 - A. No.
11. Q. If an applicant is not certified for conversion to FAS may he still apply for a lateral entry appointment as an FSO?
 - A. Yes, if he meets lateral entry eligibility requirements.
12. Q. Is a career officer serving in a position designated for FSO occupancy eligible for conversion to FAS status?
 - A. Ordinarily, only officers occupying FSRU-designated positions will be considered for conversion to FAS. However, subject to the approval of the Director of Personnel or his designee, exceptions will be made in individual instances for career officers serving in FSO positions when their experience and qualifications are suitable for FAS service. Requests for exception should be submitted to the Board of Examiners, together with the application for FAS conversion. These requests will be referred by BEX to the Director of Personnel for a decision. If approved, BEX will process the conversion application in the same way as it would for an occupant of an FAS-designated position. If an exception is not authorized, this will terminate the conversion application. The applicant may then apply for lateral entry appointment as a Foreign Service officer.
13. Q. What procedure will be used in determining the noncareer officer's certification of need required before his application for conversion will be considered?
 - A. BEX will ask the Director of Personnel to issue a certificate in the case of each noncareer officer for whom an application for conversion is received. The Director will make the determination on the basis of the number, types, and levels of career officers in the system and the current and anticipated staffing needs. If the certification is issued, BEX will proceed with the processing of the application. If the certification cannot be issued, BEX will inform the applicant.

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14. Q. Will Foreign Service Reserve officers with reemployment rights with another agency, e. g., the Department of Commerce or Labor, be eligible for conversion to FAS?
 - A. Yes. If the Department of State establishes the need for such a specialist on a permanent basis and the officer and agency are agreeable, he could be appointed FAS.
15. Q. Will Foreign Service Reserve officers employed by A. I. D. or USIA be eligible to apply for FAS conversion?
 - A. A. I. D. officers will not be eligible for FAS appointment, since A. I. D. is specifically excluded from the provisions of Public Law 90-494. A Reserve officer in USIA may be eligible for future transfer and FAS appointment in the Department of State, but would not be eligible under the Department's special conversion program.

B. Promotion and Selection-Out

1. Q. Will FAS officers compete for promotion with FSO's if serving in a functional field or positions designated for FSO staffing?
 - A. They may in some instances. Functional competition will be the basic policy governing promotion competition in the Foreign Service. The competitive group for an individual officer will be determined on the basis of his background and functional skills. His current assignment may not be the determining factor. Most non-FSO's serving in FSO functions or positions will be expected to convert to the FSO rather than FAS category if they choose to convert.
2. Q. Why was it decided to extend the selection-out procedure to the FAS group? Will this not be seriously detrimental to those employees being converted?

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- A. The Foreign Service System uses the rank-in-man concept with promotions based on competition with peers in a class or functional group. Promotion-up or selection-out is a main feature of the system for Foreign Service officers. The principal advantages of the Foreign Service Retirement System, earlier voluntary retirement, and a 2% computation factor for all years of service, are provided primarily because of the selection-out feature. There would be little justification for providing Foreign Service retirement coverage for FAS officers unless they are also subject to the selection-out provisions of the Foreign Service Act. However, in recognition of the differences in the functions to be performed by FAS officers as compared to FSO's and the requirements for staffing FAS functions, selection-out will be administered somewhat differently for FAS officers.
3. Q. Does selection-out enable management to fire an individual arbitrarily?
- A. Definitely not. Under present criteria for officers below class 1, no one is selected-out on the basis of failing to meet an appropriate standard of performance unless he has been ranked in the low 5% of his class by two Selection Boards. Each case is administratively reviewed with great care before a decision is reached to proceed with selection-out. Officers who are eligible for voluntary retirement are permitted to retire under these conditions. The second basis for selection-out is time-in-class without promotion. The time-in-class criteria for FAS officers will be different among some functional specialties and may involve longer periods than those for FSO's in the same class.
4. Q. Can a person be selected-out because of a personality clash with his supervisor?
- A. Every effort is made to avoid an officer's selection-out on the basis of one supervisor's ratings. Performance ratings are reviewed carefully to detect instances of bias or unwarranted criticism by rating officers. Selection Boards are instructed to rate officers on the basis of their entire career with due regard to more recent performance. Past weaknesses which have been overcome are to be treated accordingly. No person can be selected-out on the basis of a low percentile rating of one Selection Board. At least two Boards must rank an officer in the low percentile group of his present class before he is subject to selection-out consideration.

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5. Q. Doesn't an officer who is selected-out suffer undue economic hardships?
- A. Depending on their class, officers who are selected-out either receive an immediate annuity or are eligible for severance pay of (depending on their years of service) up to a full year's pay, in addition to which they may elect a deferred annuity at age 60 or a refund (with interest) of their contributions to the Foreign Service Retirement Fund. The Department takes the hardship factor into account by extending the effective date of separation, providing positive outplacement assistance, and where practicable deferring the date of a separation until the officer can retire with an immediate annuity.
6. Q. Will service in a comparable GS grade or FSS class count toward a time-in-class selection-out of an FAS officer?
- A. No.

II. LATERAL ENTRY APPOINTMENTS AS FSO'S

1. Q. How does one apply for a lateral entry appointment as a Foreign Service officer?
- A. By completing the application form and sending it to the Board of Examiners (BEX), Department of State, Washington, D.C. 20520. Should BEX find, after reviewing the candidate's personnel file, that it needs any additional forms or documents he will be informed. Application forms may be obtained from executive and administrative officers.
2. Q. If one has failed a lateral entry examination at any time in the past can one apply again?
- A. Yes, provided a year has passed since then (3 FAM 122.2-4c).
3. Q. What action will BEX take on the lateral entry application of a career officer?
- A. If the candidate is serving in a position designated for FSO or mixed FSO/FSRU occupancy, BEX will review his file to determine if he meets basic eligibility criteria. If so, and he is in Washington, an appointment will be arranged for him to take an oral examination. If the candidate is overseas, BEX will arrange an examination the next time he is in Washington.

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4. Q. What action will be taken on the lateral entry application of a career officer who is not serving in an FSO or mixed FSO/FSRU-designated position?
 - A. BEX will ask the Director of Personnel if a certification of need for the candidate's services as an additional Foreign Service officer can be issued. If one is issued, BEX will proceed with the processing of the application. If a certification cannot be issued, BEX will inform the applicant and this will terminate his lateral entry candidacy. However, he might be eligible to apply for conversion to FAS status.
5. Q. What action will be taken on the lateral entry application of a noncareer officer?
 - A. BEX will ask the Director of Personnel if a certification of need for the candidate's services as an additional Foreign Service officer can be issued. If one is issued, BEX will proceed with the processing of the application. If a certification cannot be issued, BEX will inform the candidate and this will terminate his candidacy.
6. Q. Who will give the examination?
 - A. A panel composed of at least three Deputy Examiners designated to conduct such examinations. Ordinarily, the panel will include at least one officer from the same professional specialty (Administrative, Consular, etc.) as that for which the candidate is being examined.
7. Q. What is the object of the examination and what factors will the panel take into account in deciding whether or not to recommend a candidate for lateral entry?
 - A. The purpose of the examination is to determine the applicant's competence to perform the function (Administrative, Consular, etc.) or functions for which he is being considered and his fitness for a Foreign Service career. As for factors to be considered, the Board of the Foreign Service has indicated that for career officers being examined for lateral entry in connection with the current Management Reform Program special weight is to be given to the performance record of an applicant in his functional field. Such factors as the officer's qualification for service abroad and his willingness and availability to serve abroad as needed are to receive particular attention as well.

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8. Q. Will candidates be examined overseas?
- A. There is no present plan for BEX to examine candidates outside of Washington. The special lateral entry program being conducted as a part of the Department's Management Reform Program extends through December 31, 1973, by which time it is expected that all candidates who are currently overseas will have had an opportunity to return to Washington on home leave or transfer orders.
9. Q. Can lateral entry oral examinations be arranged on relatively short notice?
- A. Generally speaking, yes. However, BEX has only a small staff and it may be impossible to arrange an examination within a given period unless an appointment is requested two or more weeks in advance. Appointments can be made for personnel returning from abroad by telegram sent through official channels whenever there is insufficient time to write.
10. Q. Is there a language requirement for appointment by lateral entry?
- A. A language aptitude test will be required of all candidates who do not have an FSI-tested proficiency at S-3/R-3 in a "world" language, S-2/R-2 in a "hard" language, or S-2 in one without a reading requirement. There is no other language requirement at this time insofar as appointment is concerned.
11. Q. What happens after one passes the oral examination?
- A. Security and medical records of the Department will be checked to ensure that appropriate clearances for the candidate and his family are up to date. If they are, his name will be forwarded to the White House for transmittal to the Senate. When his nomination has been confirmed he will be sworn in as a Foreign Service officer.
12. Q. If a candidate fails the lateral entry examination, will that disqualify him for conversion to FAS if he is eligible, or prejudice a conversion application in any way?
- A. No.

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13. Q. Will the grade eligibility requirements be lowered for FSSO's, FSS's, and GS employees who may apply for lateral entry to the FSO Corps?
- A. Yes. The regulations restricting lateral entry appointments to FSO-6 and above are being amended to permit the appointment prior to December 31, 1973, at the FSO-7 level of a Staff, Reserve, or Civil Service officer who:
- (a) Was on the rolls of the Department as of January 1, 1971;
 - (b) Is serving in a position designated for FSO occupancy;
 - (c) Has served as an officer, regardless of grade, in the Department or Foreign Service for at least 3 years (4 years if under the age of 31);
 - (d) Is receiving a base salary at least equal to the first step of FSO-7; and
 - (e) Meets the other eligibility requirements applicable to all lateral entry candidates being considered during the course of the Management Reform Program.

Lateral entry appointments at the FSO-8 level are prohibited by law. An employee whose salary does not equate to the first step of FSO-7 may be considered for lateral entry appointment upon promotion to FSS-6 or a comparable GS grade and salary.

14. Q. Will an officer with reemployment rights be required to relinquish such rights at the time of FAS or FSO appointment?
- A. Yes. Officers converting to FAS/FSRU or FSO will not have reemployment or retreat rights to any other permanent category--Foreign Service or Civil Service. The Foreign Service Reserve unlimited (FSRU) and Foreign Service officer are career personnel categories of the Foreign Service and an FAS or FSO cannot be separated until he reaches mandatory retirement age, is separated for cause in accordance with procedures prescribed by the Foreign Service Act, or is selected-out in accordance with provisions of the Foreign Service Act. This permanent statutory status in the Foreign Service eliminates any possibility of having concurrent rights to reemployment or retreat rights to some other permanent Foreign Service or Civil Service personnel category if an FAS or FSO officer should be involuntarily separated at any time.

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The lack of reemployment or retreat rights should not be confused with possible eligibility for another appointment in the Federal service (see Executive Order No. 11219 dated May 6, 1965). If otherwise qualified for appointment, a terminated or retired FAS or FSO officer may be hired for Federal service but employment is at the discretion of the appointing officer and not based on any legal entitlement to such appointment.